

Connecticut State University System

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RESOLUTION


concerning

THE APPROVAL OF A MEMORANDUM OF UNDERSTANDING BETWEEN
THE BOARD OF TRUSTEES FOR THE CONNECTICUT STATE UNIVERSITY SYSTEM
AND THE
STATE OF CONNECTICUT
CONCERNING THE CSUS 2020 PROGRAM

July 8, 2008

- WHEREAS, Public Act 07-7 of the June Special Session provides for "The Connecticut State University System Infrastructure Act" and establishes CSUS 2020 by authorizing up to \$950 million in general obligation bonds over ten years, beginning Fiscal Year 2009 and ending Fiscal Year 2018, for the purpose of renewing, modernizing, enhancing, expanding, acquiring and maintaining the infrastructure of the Connecticut State University System, and
- WHEREAS, The bond issuance requires the one-time approval of the program by the State Bond Commission and annual approval of lump sum allocations by the Governor, and
- WHEREAS, The State Bond Commission must approve a memorandum of understanding between the Board of Trustees for the Connecticut State University System and the State of Connecticut, acting by and through the Secretary of the Office of Policy and Management and the State Treasurer, in order to satisfy statutory provisions for the issuance of general obligation bonds, and
- WHEREAS, Approval of the memorandum of understanding represents the final action required before the allocation of funds may be considered for action by the State Bond Commission, therefore be it
- RESOLVED, That the Board of Trustees approves the memorandum of understanding between the Board of Trustees for the Connecticut State System and State of Connecticut as set forth in Attachment A to this resolution.

A Certified True Copy:



David G. Carter, Sr.
Chancellor

MEMORANDUM OF UNDERSTANDING

This MEMORANDUM OF UNDERSTANDING (the "MOU"), dated as of July 8, 2008, between the Board of Trustees of the Connecticut State University System (the "Board") and the State of Connecticut (the "State"), acting by and through the Secretary of the Office of Policy and Management (the "Secretary") and the State Treasurer (the "Treasurer"):

WITNESSETH

WHEREAS, The Connecticut State University System Infrastructure Act (Sections 101 to 108, inclusive, of Public Act No. 07-7 of the General Assembly of the State of Connecticut, June 2007 Special Session) (the "Act"), authorizes the issuance of bonds of the state in principal amounts not exceeding in the aggregate \$950,000,000 to finance the costs of the CSUS 2020 program, as defined in Section 103(4) of the Act (the "CSUS 2020 Program"); and

WHEREAS, Section 105(a) of the Act provides that the State Bond Commission shall approve the CSUS 2020 Program and authorize the issuance of bonds of the state in principal amounts not exceeding in the aggregate \$950,000,000, and that the amount provided for the issuance and sale of bonds shall be capped in each fiscal year at \$95,000,000, provided, to the extent the Board does not provide for the issuance of all or a portion of such amount in a fiscal year, or the Governor disapproves the request for issuance of all or a portion of the amount of the bonds, any amount not provided for or disapproved, as the case may be, shall be carried forward and added to the capped amount for the next succeeding fiscal year, and provided further, the costs of issuance and capitalized interest, if any, may be added to the capped amount in each fiscal year; and

WHEREAS, Section 105(b) of the Act provides that the State Bond Commission shall approve a memorandum of understanding between the board of trustees and the state, acting by and through the Secretary of the Office of Policy and Management and the Treasurer, providing for the issuance of said bonds for the purposes of the Act, including provisions regarding the extent to which federal, private or other moneys then available or thereafter to be made available for costs should be added to the proceeds of the bonds authorized pursuant to the Act for such project or projects, and that the memorandum of understanding shall be deemed to satisfy the provisions of section 3-20 of the general statutes and the exercise of any right or power granted thereby which is not inconsistent with the provisions of the Act; and

WHEREAS, the Board and the State, acting by and through the Secretary and the Treasurer, desire to enter into this MOU to provide for the issuance of such bonds as the Board may request pursuant to the Act and as may be provided for pursuant to this MOU.

NOW, THEREFORE, in consideration of the premises and of the mutual agreements herein contained, the State, acting by and through the Secretary and the Treasurer, and the Board, agree as follows:

SECTION 1. Application of State General Obligation Bond Procedure Act. Unless specifically provided otherwise in this MOU, the provisions of Section 3-20 of the General

Statutes of Connecticut, Revision of 1958 (the State General Obligation Bond Procedure Act, or the "Bond Procedure Act") are adopted for the purposes of the sale, issuance and delivery of the State's general obligation bonds to fund the costs of the CSUS 2020 Program.

SECTION 2. Bond Authorization. (a) Upon the approval by the State Bond Commission of (i) a resolution approving the CSUS 2020 Program and authorizing the issuance of bonds of the State in principal amounts not exceeding in the aggregate \$950,000,000, as provided by Section 105(a) of the Act, and (ii) this MOU, as provided by Section 105(b) of the Act, no further approval by the State Bond Commission shall be required for the authorization and allocation of bonds for the CSUS 2020 Program.

(b) (1) As provided in Section 105(d) of the Act, on or before March 1 of each year, the Board shall submit to the Governor, the Secretary and the Treasurer, the most recently approved facilities plan and the amount of bonds required for the CSUS 2020 Program for the fiscal year beginning on July 1 of that year. The Governor may, not later than thirty days after such submission, approve or disapprove all or a portion of such amount of bonding submitted by the Board by notifying the Board, in writing, of such decision and the reasons for it. If the Governor does not act within such thirty-day period, the issuance of bonds for the CSUS 2020 Program for the fiscal year beginning on July first of that year is deemed approved. The Secretary shall promptly provide notice to the Treasurer and the Board of the Governor's approval, disapproval or deemed approval of the Board's request. Subject to the capping provisions, including the addition, if any, of costs of issuance and capitalized interest to the capped amount, as provided in Section 105(a) of the Act, and following the Governor's approval or deemed approval of the request to issue bonds as described in this Section 2, (i) the principal amount of the bonds authorized shall be deemed to be an appropriation and allocation of such amount, (ii) such approval or deemed approval of the request shall be deemed the allotment by the Governor of such capital outlays within the meaning of section 4-85 of the general statutes, and (iii) contracts may be awarded and obligations incurred with respect to any such project or purpose in amounts not in the aggregate exceeding such approval or deemed approval by the Governor.

(2) It is acknowledged that, notwithstanding that the effective date of the Act is July 1, 2008, (i) on February 29, 2008, the Board timely submitted to the Governor, the Secretary and the Treasurer, the Board's most recently approved facilities plan and a request that \$95,000,000 of bonds be issued to fund the projects proposed in the CSUS 2020 Program for the fiscal year beginning on July 1, 2008, and (ii) the Governor did not disapprove any portion of the \$95,000,000 of bonds requested by the Board within thirty days after the submission by the Board. Therefore, the issuance of \$95,000,000 of bonds for the CSUS 2020 Program for the fiscal year beginning on July 1, 2008 (i) is deemed approved by the Governor, (ii) the principal amount of the bonds authorized is deemed to be an appropriation and allocation of such amount, (iii) such deemed approval of the request shall be deemed the allotment by the Governor of such capital outlays within the meaning of section 4-85 of the general statutes, and (iv) contracts may be awarded and obligations incurred with respect to any such project or purpose in amounts not in the aggregate exceeding such deemed approval by the Governor.

(c) Notwithstanding the provisions of subsections (a) and (b) of this Section 2, no bonds shall be approved or deemed approved until the statements, requests and other documents

required by subparagraphs (A), (B), (C), (D) and (E) of subdivision (1) of subsection (g) of the Bond Procedure Act are filed with the Secretary, which statements, requests and other documents shall be filed on or before March 1 of each year as part of the filing of the approved facilities plan required under subsection (b) of this Section 2; provided, for the fiscal year beginning July 1, 2008, such statements, requests and other documents shall be filed on or before the date the initial request to approve the CSUS 2020 Program is submitted to the State Bond Commission.

SECTION 3. Bond Issuance. (a) Upon the approval or deemed approval of the issuance of bonds for the CSUS 2020 Program for any fiscal year beginning on July first of that year, as provided in Section 2 hereof, the Treasurer may issue one or more series of bonds for the projects required for the CSUS 2020 Program as may be determined by the Treasurer in the best interest of the State and as provided in a resolution of the State Bond Commission authorizing the issuance of bonds of the State. The Treasurer may pay any expense incurred in connection with the issuance of such bonds, including the issuance of any refunding bonds, from the accrued interest and premiums or from the proceeds of the sale of such bonds or refunding bonds and in the same manner as other obligations of the State.

(b) The proceeds of the bonds of any issue shall be deposited into the CSUS 2020 Fund created by the Act, be used solely for the purposes identified in the Act, and be disbursed in such manner and under such restrictions, if any, pursuant to the facilities plan submitted by the Board and approved or deemed approved by the Governor in accordance with subsection (b) of Section 2 of this MOU.

(c) For the purposes of this subsection "state moneys" means the proceeds of the sale of bonds authorized pursuant to the Act or of temporary or interim notes issued in anticipation of the moneys to be derived from the sale of such bonds. The request filed by the Board pursuant to subsection (b) of Section 2 of this MOU for an issuance of bonds shall identify the projects for which the proceeds of the sale of such bonds are to be used and expended and, if applicable, shall include the recommendation of the Board as to the extent to which federal, private or other moneys then available or thereafter to be made available for costs in connection with such projects should be added to the state moneys available or becoming available hereunder for such projects; provided, for the fiscal year beginning July 1, 2008, the Board shall file such recommendation with the Secretary on or before the date the initial request to approve the CSUS 2020 Program is submitted to the State Bond Commission.

If the request includes a recommendation that some amount of such federal, private or other moneys should be added to such state moneys, then, if and to the extent directed by the Secretary at the time the Secretary provides notice to the Treasurer and the Board of the Governor's approval or deemed approval of the facility plan submitted by the Board pursuant to subsection (b) of Section 2 of this MOU, said amount of such federal, private or other moneys then available or thereafter to be made available for costs in connection with such projects may be added to any state moneys available or becoming available hereunder for such projects and be used for such projects as if constituting such state moneys, and any other federal, private or other moneys then available or thereafter to be made available for costs in connection with such projects, if and to the extent from time to time directed by the Secretary, upon receipt shall, in conformity with applicable federal and state law, be used for the purposes for which such other

moneys are received in accordance with the proceedings of the Board, and otherwise by the Treasurer to meet the principal of outstanding bonds issued pursuant to this section or to meet the principal of temporary or interim notes issued in anticipation of the money to be derived from the sale of bonds theretofore authorized pursuant to said Act for the purpose of financing such costs, either by purchase or redemption and cancellation of such bonds or notes or by payment thereof at maturity. Whenever any of the federal, private or other moneys so received with respect to such projects are used to meet principal of such temporary or interim notes or whenever principal on any such temporary or interim notes is retired by application of revenue receipts of the state, the amount of bonds theretofore authorized in anticipation of which such temporary or interim notes were issued, and the aggregate amount of bonds which may be authorized pursuant to the Act, shall each be reduced by the amount of the principal so met or retired. Pending use of the federal, private or other moneys so received to meet principal as hereinabove directed, the amount thereof may be invested by, or at the direction of, the Treasurer in bonds or obligations of, or guaranteed by, the state or the United States or agencies or instrumentalities of the United States, or in accordance with the provisions of the Bond Procedure Act, and shall be deemed to be part of the debt retirement funds of the state, and net earnings on such investments shall be used in the same manner as the said moneys so invested.

(The next page is the signature page)

IN WITNESS WHEREOF, the parties hereto have caused this MOU to be executed by their respective officers thereunto duly authorized, as of the date first above written.

STATE OF CONNECTICUT

By _____
Secretary of the Office of Policy and
Management

By _____
State Treasurer

BOARD OF TRUSTEES OF THE
CONNECTICUT STATE UNIVERSITY
SYSTEM

By _____
Its Chairman