

3. Adopt Bond Resolution for Electrical System Conversion Project; Approve the Execution of Various Documents in Connection Therewith – KSU

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General Counsel**

Summary and Staff Recommendation

Kansas State University requests that the Board of Regents adopt a Resolution for the issuance of revenue bonds, proceeds of which will be used for a rehabilitation and repair project to convert and upgrade the electrical distribution system on the Manhattan campus.

The Resolution would authorize the issuance of K DFA Revenue Bonds (or other debt) in one or more series in a total aggregate amount sufficient to finance project expenditures not to exceed \$8,000,000, plus costs and reserves. The purpose of these Bonds is to finance the costs of the conversion and upgrade of the electrical distribution system. The Bonds will be secured with a pledge of generally available unencumbered funds of the University, though the University has identified a portion of the Educational Building Fund annual appropriation and interest deposited in the Deferred Maintenance Support Fund to pay the annual debt service.

As of June 2016, the University and its affiliated corporations had approximately \$506 million in outstanding bonds. The University has identified a specific revenue source to pay the debt service on all outstanding bonds, and \$367 million of the \$506 million is also supported by a pledge of generally available unencumbered funds of the University.

The Resolution further authorizes the Chair and the President and CEO to execute the Resolution and various other documents relating to the security and payment of such Bonds in such form as is approved by the General Counsel to the Board and necessary to accomplish the purposes set forth in the Resolution and the issuance of the Bonds, and authorizes the President of the University to execute the Pledge of Revenues Agreement and various other documents relating to the security and payment of such Bonds in such form as is approved by the university general counsel and necessary to accomplish the purposes set forth in the Resolution and the issuance of the Bonds.

Board approval of this issuance of revenue bonds and the authorizations set forth in the Resolution are contingent upon the 2017 Legislature’s enactment and Governor’s approval of the authorizing legislative provision.

Background

The Kansas Development Finance Authority (K DFA), created by the 1987 Kansas Legislature, K.S.A. 74-8901, *et seq.*, has authority to issue bonds on behalf of the State for projects authorized by the Legislature. K.S.A. Supp. 74-8905(b) provides, in part, that:

The authority may issue bonds for activities and projects of state agencies as requested by the secretary of administration. Research facilities of state educational institutions shall be subject to the provisions of this subsection (b). No bonds may be issued pursuant to this act for any activity or project of a state agency unless the activity or project either has been approved by an appropriation or other act of the legislature or has been approved by the state finance council acting on this matter which is hereby characterized as a matter of legislative delegation and subject to the guidelines prescribed in subsection (c) of K.S.A. 75-3711c, and amendments thereto.

Authority to initiate and complete a capital improvement project, and to issue revenue bonds, for the Electrical Distribution System Upgrade project is expected to be granted by the 2017 Legislature in an appropriations bill to read as follows:

In addition to the other purposes for which expenditures may be made by Kansas state university from the moneys appropriated from the state general fund or from any special revenue fund or funds for fiscal year 2018 or fiscal year 2019 as authorized by this or other appropriation act of the 2017 or 2018 regular session of the legislature, expenditures may be made by Kansas state university from moneys appropriated from the state general fund or from any special revenue fund or funds for fiscal year 2018 or fiscal year 2019, to provide for the issuance of bonds by the Kansas development finance authority in accordance with K.S.A. 74-8905, and amendments thereto, for a capital improvement project to convert and upgrade electrical distribution systems on the campus of Kansas state university: *Provided*, That such capital improvement project is hereby approved for Kansas state university for the purposes of K.S.A. 74-8905(b), and amendments thereto, and the authorization of the issuance of bonds by the Kansas development finance authority in accordance with that statute: *Provided further*, That Kansas state university may make expenditures from the moneys received from the issuance of any such bonds for such capital improvement project: *Provided, however*, That expenditures from the moneys received from the issuance of any such bonds for such capital improvement project shall not exceed \$8,000,000 plus all amounts required for costs of bond issuance, costs of interest on the bonds issued for such capital improvement project during the construction of such project, credit enhancement costs and any required reserves for the payment of principal and interest on the bonds: *And provided further*, That all moneys received from the issuance of any such bonds shall be deposited and accounted for as prescribed by applicable bond covenants: *And provided further*, That debt service for any such bonds for such capital improvement project shall be financed by appropriations from any appropriate special revenue fund or funds: *And provided further*, That Kansas state university shall make provisions for the maintenance of the electrical distribution systems project.

Pursuant to these authorizations, and after consulting with KDFFA, the University proposes to issue revenue bonds in an aggregate principal amount sufficient to finance expenditures for costs of the project in an amount not to exceed \$8,000,000, plus any additional amounts required to finance costs of issuance, costs of interest on such bonds during the construction of the project, credit enhancement costs, and any required reserves for the payment of principal and interest on such bonds. After consultation with KDFFA, the University is proposing that the bonds be secured by a pledge of generally available unencumbered funds of the University, though the University has identified a portion of the Educational Building Fund annual appropriation and interest deposited in the Deferred Maintenance Support Fund to pay debt service on the bonds.

The Electrical Distribution System Upgrade Project, and anticipated use of bond financing, was first submitted to the Board at its December 2016 meeting.

The Project

K-State's primary electrical distribution system comprises a 4160V system installed in the 1950s and a newer 12.5kVA system. In 2007, the University began a switchover to the 12.5kVA system as the existing 4160V system is outdated and has no redundancy capabilities. The switchover to the updated system has been occurring as funds are available within the University's share of the rehabilitation and repair appropriation from the Educational Building Fund—typically one to two buildings per year. Currently, 19 campus buildings are still supplied by the 4160V campus electrical distribution system. Over the past few years, the frequency of power outages in the buildings on the 4160V system have become unacceptably high as a result of the antiquated system. The outages have been disruptive to providing services for students, impacted classroom instruction and resulted in unanticipated costs for temporary measures to mitigate downtime. If the University continues upgrading from the 4160V system to the 12.5kVA at the rate of one or two buildings per year, the old system would remain for the next 14 years with increased potential for power outages.

The proposed project will move all remaining buildings from the 4160V system to the 12.5kVA system during a two-year timeframe. Additionally, each building will undergo a service upgrade to include replacement of

transformers, low voltage service into the building and building switchgear. All new work will comply with US DOE 2016 Efficiency Standards and current electrical and building codes. The work will be completed in phases on groups of buildings that have been identified as having a greater likelihood of power failure.

The total project cost is estimated at \$8 million. Legislative bonding authority of \$8 million is expected to be received during the 2017 Legislative Session. The University desires to secure short-term financing, not to exceed eight years through the Kansas Development Finance Authority. Debt service will be repaid from a portion of the Educational Building Fund annual appropriation and revenue generated from interest deposited in the Deferred Maintenance Support Fund.

As of June 2016, the University and its affiliated corporations had approximately \$506 million in outstanding bonds. The University has identified a specific revenue source to pay the debt service on all outstanding bonds, and \$367 million of the \$506 million is also supported by a pledge of generally available unencumbered funds of the University.

If the Board authorizes K-State to proceed with the project outlined above, the University requests that the Board adopt a Resolution approving the issuance of bonds by the Kansas Development Finance Authority to finance the projects. The Resolution is set forth in full below.

Administrative Costs

In conjunction with the issuance of the proposed bonds, since KDFFA has and will incur expenses in relation to the issuance of the proposed bonds and subsequent administration of the Resolution and Pledge of Revenues Agreement, it will be necessary for the University to execute an Administrative Agreement to provide for reimbursement of those expenses, as well as other documents and certificates necessary to accomplish the purposes set forth in the Resolutions and the issuance and delivery of the bonds.

Conclusion

The Board is asked to adopt the Resolution (set out in full below), to approve the issuance of bonds for the Electrical Distribution System Upgrade Project. The Resolution would authorize the University President to execute the Pledge Agreement in such form as is approved by the University’s general counsel and to execute any other documents and certificates necessary to accomplish the purposes of the Resolution and the issuance of the bonds. The Resolution further would authorize the Chair and President and CEO of the Board to execute the Resolution and any other documents and certificates, in such form as is approved by General Counsel to the Board, and necessary to accomplish the purposes of the Resolution and the issuance of the bonds. Staff recommends adoption of the Resolution, with approval of the issuance of this issuance of revenue bonds and the authorizations set forth in the Resolution being contingent upon enactment of the authorizing legislation described herein.

Gilmore & Bell Draft
May 30, 2017
Bond Resolution-1

RESOLUTION

A RESOLUTION OF THE KANSAS BOARD OF REGENTS APPROVING THE ISSUANCE BY THE KANSAS DEVELOPMENT FINANCE AUTHORITY OF ITS KANSAS DEVELOPMENT FINANCE AUTHORITY REVENUE BONDS (KANSAS STATE UNIVERSITY ELECTRICAL DISTRIBUTION SYSTEMS PROJECT) TO PROVIDE ALL OR A PORTION OF THE FUNDS NECESSARY TO CONVERT AND UPGRADE THE ELECTRICAL DISTRIBUTION SYSTEM ON THE MANHATTAN CAMPUS OF KANSAS STATE UNIVERSITY; AUTHORIZING THE EXECUTION OF

A PLEDGE OF REVENUES AGREEMENT BETWEEN KANSAS STATE UNIVERSITY AND THE KANSAS DEVELOPMENT FINANCE AUTHORITY THAT CONTAINS CERTAIN COVENANTS AND PROVISIONS WITH RESPECT TO THE PLEDGE OF CERTAIN FUNDS OF THE UNIVERSITY THAT WILL PROVIDE FOR THE PAYMENT OF SUCH BONDS; AND AUTHORIZING THE EXECUTION OF VARIOUS OTHER DOCUMENTS RELATING TO THE ISSUANCE OF, SECURITY AND PAYMENT OF SUCH BONDS.

WHEREAS, the Kansas Board of Regents (the "Board") is vested under the Constitution and laws of the State of Kansas with supervision and control over Kansas State University (the "University"), and is authorized under such laws to adopt this Resolution and perform, execute and carry out, or cause to be performed, executed and carried out, the powers, duties and obligations of the Board under this Resolution in connection with the improvement and expansion of certain facilities located on the campus of the University and the University's operation thereof; and

WHEREAS, the Board and the University have heretofore determined that it is advisable to convert and upgrade the Manhattan Campus electrical distribution system (the "Project"); and

WHEREAS, the Board and the University anticipate that the 2017 Kansas Legislature will enact and the Governor of Kansas will approve legislation (the "Authorizing Legislation") that authorizes the Kansas Development Finance Authority (the "Authority"), on behalf of the University, to issue its revenue bonds in an amount not to exceed \$8,000,000, plus any additional amounts required to finance costs of issuance, costs of interest on such revenue bonds during the construction of the Project, credit enhancement costs and any required reserves for the payment of principal and interest on such revenue bonds; and

WHEREAS, the University has requested that revenue bonds secured by a pledge of generally available unencumbered funds of the University be issued by the Authority pursuant to K.S.A. 74-8901 *et seq.* on behalf of the University to finance all or a portion of the costs of the Project (the "Bonds"); and

WHEREAS, the University intends to make provisions for the maintenance of the Project and the payment of debt service on the Bonds; and

WHEREAS, the Board, upon recommendation of the University, hereby finds and determines that, subject to the enactment of the Authorizing Legislation, it is advisable that the Bonds be issued by the Authority on behalf of the University, such bonds to be secured by the pledge of generally available unencumbered funds of the University; and

WHEREAS, prior to the issuance of the Bonds, the Authority will receive from the Secretary of Administration a request to issue bonds for the purpose of financing the Project and paying related interest, costs and reserves on behalf of the University; and

WHEREAS, in conjunction with the issuance of the Bonds, the University will be required to execute a Pledge of Revenues Agreement between the University and the Authority (the "Pledge Agreement"), which contains certain covenants and provisions with respect to the pledge of generally available unencumbered funds of the University; and

WHEREAS, it is recognized that the Authority has and will incur additional expenses in relation to the issuance of the Bonds and subsequent administration and enforcement of the Pledge Agreement, and the University desires to reimburse the Authority for said additional expenses through the execution of an Administrative Service Fee Agreement (the "Administrative Agreement").

NOW THEREFORE, BE IT RESOLVED BY THE KANSAS BOARD OF REGENTS, AS FOLLOWS:

SECTION 1. The Board hereby approves the issuance of the Bonds by the Authority on behalf of the University to finance all or a portion of the costs of the Project, in an aggregate principal amount not to exceed \$8,000,000, plus any additional amounts required to finance costs of issuance, costs of interest on the Bonds during construction of the Project, credit enhancement costs and any required reserves for the payment of principal and interest on the Bonds. The Bonds may be issued jointly with other revenue bonds for the University and shall be issued substantially in the form and with the repayment terms and provisions contained in information to be presented to the Board by the Authority and the University.

SECTION 2. The Board hereby authorizes the President of the University to execute on behalf of the University the Pledge Agreement, the Administrative Agreement and such other documents and certificates necessary to accomplish the purposes set forth in this Resolution and the issuance of the Bonds, in such forms as are approved by the General Counsel to the University. The Board hereby further authorizes and instructs the Chair and President and CEO of the Board to execute on behalf of the Board such documents and certificates necessary to accomplish the purposes set forth in this Resolution and the issuance of the Bonds, in such forms as are approved by the General Counsel to the Board.

SECTION 3. This Resolution shall be in full force and effect from and after its adoption; provided, however, that the approvals and authorizations set forth in this Resolution are contingent upon the enactment of the Authorizing Legislation.

CERTIFICATE

We, the undersigned Chair and President and CEO of the Kansas Board of Regents, hereby certify that the foregoing Resolution was lawfully adopted by the Board at its meeting held on June 14, 2017.

KANSAS BOARD OF REGENTS

(SEAL)

By _____
Zoe F. Newton, Chair

ATTEST:

By _____
Blake Flanders, Ph.D.
President and CEO