



# MEMORANDUM

TAB D

May 19, 2022

## Southern Utah University – Series 2022 Revenue Bonds

Board Policy R590, *Issuance of Revenue Bonds for Colleges and Universities*, requires the Board to review and approve the issuance and sale of revenue bonds that have been affirmatively authorized by the Utah State Legislature. Southern Utah University requests Board authorization to issue up to \$12,000,000 of Auxiliary Fee and Student Building Fee Revenue Bonds for the construction of The Cottages on Shakespeare Lane, as approved by the Board in January 2022 and authorized in the 2022 Legislative Session (H.B. 191).

The relevant parameters of the requested issue are:

- Principal amount not to exceed \$12,000,000 (including costs of issuance and capitalized interest)
- Interest rate not to exceed 5.5%
- Discount from par not to exceed 2%
- Final maturity not to exceed 31 years from the date of issue

A copy of the request letter from the University, a financing summary from the financial advisor, and the Approving Resolution are attached. Representatives from the University will attend the meeting to provide additional information and answer questions from the Board.

### Commissioner's Recommendations

The Commissioner recommends approval of the proposed Authorizing Resolution to issue Auxiliary System and Student Building Fee Revenue bonds for Southern Utah University.

### Attachments

April 26, 2022

Dave R. Woolstenhulme, Commissioner  
Utah System of Higher Education  
60 South 400 West  
Salt Lake City, UT 84101

Dear Commissioner Woolstenhulme:

At its January 14, 2022, meeting, the Board of Higher Education (Board) approved Southern Utah University's (SUU) request for a non-state funded project to purchase The Cottages on Shakespeare Lane, with an associated rental property. SUU's administration pursued this request through the 2022 Legislative Session ultimately receiving approval and authorization to issue bonds in H.B. 191, *Revenue Bond and Capital Facilities Amendments*.

In conjunction with Zions Bank Public Finance and Chapman & Cutler Bond Counsel, SUU presents the following Board Resolution authorizing the sale of bonds on behalf of SUU to complete the approved transaction. As outlined within, bonds will be issued under the "Auxiliary Fee and Student Building Fee Revenue Bonds, Series 2022" for a principal amount not to exceed \$12.0 million.

On behalf of Interim President Benson and SUU, I request your favorable consideration of this action.

I look forward to our discussion at the May 19<sup>th</sup> and 20<sup>th</sup> Board meetings and the opportunity to respond to any questions that may arise from this proposal.

Sincerely,



Marvin L. Dodge  
Vice President

**Southern Utah University**  
**Auxiliary Fee and Student Building Fee Revenue Bonds, Series 2022**  
**Preliminary Summary Sheet**

Proposed Issue: Auxiliary System and Student Building Fee Revenue Bonds, Series 2022

Total Approximate Issue Size: \$11,400,000

Use of Funds: To finance the cost of purchasing The Cottages apartment complex at 141 & 151 West Shakespeare Lane, as well as an adjoining home; satisfy any debt service reserve fund requirements; provide for capitalized interest; and pay for costs of issuance.

Detail of Proposed Series 2022 Bonds:

Principal Amount: Not to exceed \$12,000,000

Interest Rate: Not to exceed 5.5%

Maturity Date: Not to exceed 31 years

Aggregate Discount: Not to exceed 2%

Underwriter's Discount: Not to exceed 2%

Bond Rating: AA from S&P

Underlying Rating: AA from S&P utilizing the State Moral Obligation

Source of Repayment: Auxiliary System and Student Building Fee Revenues

Timetable Considerations: Utah Board of Higher Education approval will be sought at the May 19/20 meetings. The University is proceeding with plans to sell bonds soon after Board approval is received, with a tentative sale date planned for Thursday, June 16, 2022. The University anticipates selling bonds by competitive sale, and the underwriter will be whichever provides the lowest borrowing cost as a combination of each bidder's proposed rates and fees. The anticipated closing date is June 30, 2022.

May 20, 2022

The Utah Board of High Education (formerly known as the State Board of Regents of the State of Utah) (the “*Board*”) met in regular session at the Board of Higher Education Building, 60 South 400 West, Salt Lake City, Utah, on May 20, 2022, commencing at 8:00 a.m. The following members of the Board were present:

Harris H. Simmons	Chair
Nina Barnes	Vice Chair
Aaron V. Osmond	Vice Chair
Jessellie Barlow Anderson	Member
Mike Angus	Member
Jera L. Bailey	Member
Stacey K. Bettridge	Member
Lisa Michele Church	Member
Wilford Clyde	Member
Sanchaita Datta	Member
Alan E. Hall	Member
Patricia Jones	Member
Crystal Maggelet	Member
Tanner Marcum	Student Representative
Arthur E. Newell	Member
Shawn Newell	Member
Valirie Serawop	Student Representative
Scott L. Theurer	Member.

ABSENT: \_\_\_\_\_.

As required by Section 52-4-203, Utah Code Annotated 1953, as amended, written minutes and a recording of this meeting are being kept.

After the meeting had been duly convened and called to order by the Chair and the roll had been called with the above result, and after other business had been conducted, the Chair announced that one of the purposes of the meeting was the consideration of various matters with respect to the issuance and sale of the Utah Board of Higher Education, Southern Utah University Auxiliary System and Student Building Fee Revenue Bonds.

The following resolution was introduced in written form and, after full discussion, pursuant to motion made and seconded, was adopted by the following vote:

YEA:

ABSTAIN: \_\_\_\_\_.

NAY: \_\_\_\_\_.

ABSENT: \_\_\_\_\_.

The resolution is as follows:

### RESOLUTION

A RESOLUTION OF THE UTAH BOARD OF HIGHER EDUCATION AUTHORIZING THE ISSUANCE AND SALE OF ITS SOUTHERN UTAH UNIVERSITY AUXILIARY SYSTEM AND STUDENT BUILDING FEE REVENUE BONDS IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT TO EXCEED \$12,000,000; AUTHORIZING THE EXECUTION OF A SUPPLEMENTAL INDENTURE OF TRUST, AN OFFICIAL STATEMENT AND OTHER DOCUMENTS REQUIRED IN CONNECTION THEREWITH; AUTHORIZING THE TAKING OF ALL OTHER ACTIONS NECESSARY TO THE CONSUMMATION OF THE TRANSACTIONS CONTEMPLATED BY THIS RESOLUTION; AND RELATED MATTERS.

WHEREAS, the Utah Board of Higher Education (formerly known as the State Board of Regents of the State of Utah) (the "*Board*") is established and exists under and pursuant to Section 53B-1-402, Utah Code Annotated 1953, as amended (the "*Utah Code*");

WHEREAS, pursuant to the provisions of Title 53B Chapter 1, Utah Code, the Board is authorized to act as the governing authority of Southern Utah University (the "*University*") for the purpose of exercising the powers contained in Title 53B, Chapter 21, Utah Code (the "*Act*");

WHEREAS, pursuant to the Act, the Board is, for and on behalf of the University, authorized to issue bonds payable from a special fund into which the revenues of the University may be deposited;

WHEREAS, pursuant to the provisions of Section 63B-32-101(8) of the Utah Code (the "*Authorization*"), the Board is authorized to issue revenue bonds on the credit, revenues and reserves of the University, other than appropriations by the Utah Legislature, to provide up to \$12,000,000 to finance the cost of purchasing The Cottages at Shakespeare Lane apartment complex and adjoining home (the "*Project*") together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements;

WHEREAS, the Project will include the acquisition and improvement of The Cottages at Shakespeare Lane apartment complex and adjoining home and related facilities;

WHEREAS, the Board considers it desirable and necessary for the benefit of the residents of the State of Utah (the "*State*") to issue its "Utah Board of Higher Education, Southern Utah University Auxiliary System and Student Building Fee Revenue Bonds" (the "*Bonds*"), for the purpose of financing, together with any available funds of the University to be used for such purpose, the cost of the Project, satisfying any debt service reserve requirements, providing capitalized interest on the Bonds and paying costs of issuance of the Bonds;

WHEREAS, the Bonds will be issued in an aggregate principal amount of not to exceed \$12,000,000 and will be issued pursuant to the General Indenture of Trust dated as of March 15, 1993, as heretofore supplemented and amended (the "*General Indenture*"), and as further supplemented and amended by a Supplemental Indenture of Trust (the "*Supplemental Indenture*") and, together with the General Indenture, the "*Indenture*"), each by and between the Board, acting for and on behalf of the University, and Wells Fargo Bank, National Association, or any successor thereto, as trustee (the "*Trustee*");

WHEREAS, the Bonds shall be payable solely from the revenues and other moneys pledged therefor under the Indenture and shall not constitute nor give rise to a general obligation or liability of the State, the Board or the University or constitute a charge against the general credit of the State, the Board or the University;

WHEREAS, there have been presented to the Board at this meeting a form of a Preliminary Official Statement relating to the Bonds (the "*Preliminary Official Statement*") and a form of the Supplemental Indenture;

WHEREAS, expenditures relating to the Projects (the "*Expenditures*") (a) have been paid from the University's general fund (the "*Fund*") within 60 days prior to the passage of this resolution (the "*Resolution*") or (b) will be paid from the Fund on or after the passage of this Resolution and prior to the issuance of the Bonds; and

WHEREAS, pursuant to Section 53B-21-102(3)(m) of the Act and subject to the Authorization being effective, the Board desires to grant to the Chair, the Vice Chair of the Board and the Chair of the Budget and Finance Subcommittee of the Board (each a "*Designated Board Officer*") the authority to approve the final principal amounts, discounts, maturities, interest rates, redemption provisions, purchase prices and other terms of the Bonds (including the amount, if any, of the debt service reserve requirement for the Bonds) and any changes with respect thereto from those terms which were before the Board at the time of adoption of this Resolution, provided such terms do not exceed the parameters set forth in this Resolution, and the authority to approve and execute all documents relating to the issuance of the Bonds;

NOW, THEREFORE, BE IT RESOLVED BY THE UTAH BOARD OF HIGHER EDUCATION, AS FOLLOWS:

*Section 1.* All terms defined in the foregoing recitals hereto shall have the same meanings when used herein. Capitalized terms used and not otherwise defined herein shall have the meanings assigned to such terms in the Indenture.

*Section 2.* All action heretofore taken (not inconsistent with the provisions of this Resolution) by the Board and the officers of the Board or the University directed toward the issuance of the Bonds are hereby ratified, approved and confirmed.

*Section 3.* The Supplemental Indenture, in substantially the form presented to the Board at this meeting, is in all respects authorized, approved and confirmed. Each Designated Board Officer and the Secretary of the Board and the University's President, the Vice President for

Finance and Administration or Assistant Vice President for Finance (each a “*Designated University Officer*” and collectively with the Designated Board Officers, the “*Designated Officers*”) are hereby authorized to execute and deliver the Supplemental Indenture, in the form and with substantially the same content as presented at this meeting, for and on behalf of the Board and the University with such alterations, changes or additions as may be authorized pursuant to the terms of this Resolution.

*Section 4.* For the purpose of providing funds to be used for the purpose of (a) financing all or a portion of the cost of the Project, (b) satisfying the debt service reserve requirement, if any, (c) providing capitalized interest on the Bonds, and (d) paying costs of issuance of the Bonds, including the cost of any bond insurance policy, surety bond or other credit enhancement for the Bonds, the Board hereby authorizes the issuance of the Bonds in the aggregate principal amount of not to exceed \$12,000,000. The Bonds shall bear interest at the rates, shall mature in the principal amounts and on the dates, and shall be subject to redemption, as shall be approved by a Designated Board Officer as provided below, all within the parameters set forth in *Schedule A* attached hereto and incorporated herein by reference.

*Section 5.* The form, terms and provisions of the Bonds and the provisions for the signatures, authentication, payment, registration, transfer, exchange, redemption and number shall be as set forth in the Indenture. Any Designated Board Officer and the Secretary of the Board and any Designated University Officer are hereby authorized to execute and seal the Bonds and to deliver the Bonds to the Trustee for authentication. All terms and provisions of the Indenture and the Bonds are hereby incorporated in this Resolution. The appropriate officials of the Board and the University are hereby authorized to execute and deliver to the Trustee the written order of the Board for authentication and delivery of the Bonds in accordance with the provisions of the Indenture.

*Section 6.* The Board hereby authorizes, approves and directs the use and distribution of the Preliminary Official Statement in such form as shall be approved by the Chair or Vice Chair of the Board or the President or Vice President for Finance and Administration of the University. Each such Designated Officer is authorized to execute such certificates as shall be necessary to “deem final” the Preliminary Official Statement for purposes of Rule 15c2-12 of the Securities and Exchange Commission. Any such Designated Officer is hereby authorized to execute and deliver on behalf of the Board and the University a final Official Statement in substantially the form and with substantially the same content as the Preliminary Official Statement, with such alterations, changes or additions as may be necessary to conform to the terms of the Bonds and finalize the Official Statement. The use and distribution of the Official Statement are hereby authorized.

*Section 7.* The Bonds shall be sold to the initial purchaser (the “*Underwriter*”) pursuant to a public sale at a discount of not to exceed 2.0% of the face amount of the Bonds plus accrued interest, if any. Pursuant to Section 53B-21-102(3)(m) of the Act, a Designated Board Officer (with concurrence of a Designated University Officer) is hereby authorized to specify and agree as to the final principal amounts, discounts, maturities, interest rates, redemption provisions, purchase prices and other terms of the Bonds (including the amount, if any, of the debt service reserve requirement for the Bonds) for and on behalf of the Board and the University by the

execution of the Indenture, or other instrument or instruments as may be necessary to confirm the award of the Bonds to the Underwriter, and any changes to the Supplemental Indenture from those terms which were before the Board at the time of adoption of this Resolution, provided such terms are within the parameters set by this Resolution.

*Section 8.* The appropriate officers of the Board and the University, including without limitation the Designated Board Officers, Commissioner of Higher Education, the Chief Financial Officer and Secretary of the Board and the Designated University Officers are hereby authorized to take all action necessary or reasonably required by the Indenture to carry out, give effect to and consummate the transactions as contemplated thereby and are authorized to take all action necessary in conformity with the Act.

*Section 9.* The appropriate officials of the Board and the University, including without limitation the Designated Officers, are authorized to make any alterations, changes or additions to the Supplemental Indenture, the Bonds, the Preliminary Official Statement, or any other document herein authorized and approved as authorized by this Resolution, including such alterations, changes or additions which may be necessary to correct errors or omissions therein, to remove ambiguities therefrom, or to conform the same to other provisions of said instruments, to the provisions of this Resolution or any resolution adopted by the Board or the provisions of laws of the State or the United States.

*Section 10.* The appropriate officials of the Board and the University, including without limitation the Designated Board Officers, Commissioner of Higher Education, the Chief Financial Officer and Secretary of the Board and the Designated University Officers, are hereby authorized and directed to (a) accept a commitment for, and agree to the terms of, a bond insurance policy, surety bond, or other credit enhancement that such officer or officers determine to be in the best interests of the Board and the University, and (b) execute and deliver for and on behalf of the Board and the University any or all additional certificates, documents, instruments and other papers and perform all other acts they may deem necessary or appropriate in order to implement and carry out the matters authorized in this Resolution and the documents authorized and approved herein, including (without limitation) such (i) continuing disclosure undertakings or agreements as shall be necessary under Rule 15c2-12 of the Securities and Exchange Commission, (ii) certificates and agreements as shall be necessary to establish and maintain the tax status of the Bonds under the provisions of the Internal Revenue Code of 1986, as amended, and (iii) letter of representations with The Depository Trust Company (“DTC”), if any, shall be necessary to qualify the Bonds for DTC; book-entry system.

*Section 11.* Upon their issuance, the Bonds will constitute special limited obligations of the Board payable solely from and to the extent of the sources set forth in the Indenture. No provision of this Resolution, the Bonds, the Indenture or any other instrument, shall be construed as creating a general obligation of the Board or the University, or of creating a general obligation of the State or any political subdivision thereof, nor as incurring or creating a charge upon the general credit of the Board, the University, the State or any political subdivision thereof.

*Section 12. Reimbursement Intent.* To the extent the requirements have not previously been satisfied, in satisfaction of certain requirements under the Internal Revenue Code of 1986, as amended, the Board reasonably expects to reimburse the Expenditures with proceeds of the Bonds to be issued in the maximum principal amount of not more than \$12,000,000.

*Section 13.* All proceedings, resolutions and actions of the Board and the University and their officers and employees taken in connection with the Bonds are hereby ratified, confirmed and approved.

*Section 14.* After any of the Bonds are delivered by the Trustee to the Underwriter and upon receipt of payment therefor, this Resolution shall be and remain irrevocable until the principal of, premium, if any, and interest on the Bonds are deemed to have been fully discharged in accordance with the terms and provisions of the Indenture.

*Section 15.* If any provisions of this Resolution should be held invalid, the invalidity of such provisions shall not affect the validity of any of the other provisions of this Resolution.

*Section 16.* All resolutions of the Board or parts thereof inconsistent herewith, are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed as reviving any bylaw, order or resolution or part thereof.

*Section 17.* This Resolution shall become effective immediately upon its adoption.

*(Signature page follows.)*

PASSED AND APPROVED by the Utah Board of Higher Education this 20th day of May, 2022.

UTAH BOARD OF HIGHER EDUCATION

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Chair

[SEAL]

ATTEST:

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Secretary

After the conduct of other business not pertinent to the above, the meeting was, on motion duly made and seconded, adjourned.

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Chair

[SEAL]

ATTEST:

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Secretary

STATE OF UTAH                    )  
  : ss.  
COUNTY OF SALT LAKE        )

I, the undersigned, do hereby certify that I am the duly qualified and acting Secretary of the Utah Board of Higher Education.

I further certify that the above and foregoing constitutes a true and correct copy of an excerpt of the minutes of a meeting of said Board held on May 20, 2022 and of a resolution adopted at said meeting, as said minutes and resolution are officially of record in my possession.

IN WITNESS WHEREOF, I have hereunto subscribed my official signature and impressed hereon the official seal of said Board this 20th day of May, 2022.

\_\_\_\_\_  
Secretary

[SEAL]

STATE OF UTAH                    )  
  : ss.  
COUNTY OF SALT LAKE        )

I, the undersigned, the duly qualified and acting Secretary of the Utah Board of Higher Education (the “Board”), do hereby certify, according to the records of the Board in my official possession, and upon my own knowledge and belief, that:

(a) in accordance with the requirements of Section 52-4-202, Utah Code Annotated 1953, as amended, I gave public notice of the agenda, date, time and place of the May 20, 2022 public meeting held by the members of the Board by causing a Notice of Public Meeting to be posted at the principal office of the Utah Board of Higher Education at 60 South 400 West in Salt Lake City, Utah, at least 24 hours prior to the convening of such meeting, in the form attached hereto as *Exhibit A*, said Notice of Public Meeting having continuously remained so posted and available for public inspection during the regular office hours of the Board until the convening of the meeting; causing a copy of said Notice of Public Meeting in the form attached hereto as *Exhibit A* to be provided, at least 24 hours prior to the convening of such meeting; causing a Notice of Public Meeting to be posted on May \_\_, 2022, at the Utah Public Notice Website at least 24 hours before the convening of the meeting; and providing a copy of said Notice of Public Meeting in the form attached hereto as *Exhibit A* to at least one newspaper of general circulation within the geographic jurisdiction of the Board or a local media correspondent, by virtue of posting such Notice on the Utah Public Notice Website as aforesaid, in accordance with Sections 52-4-202(3) and 63F-1-701(d), Utah Code Annotated 1953, as amended;

(b) in accordance with the requirements of Section 52-4-202, Utah Code Annotated 1953, as amended, public notice of the 2020 Annual Meeting Schedule of the Board was given specifying the date, time and place of the regular meetings of the Board scheduled to be held during the year, by causing a Notice of Annual Meeting Schedule for the Board in the form attached as *Exhibit B* to be posted during or before January 2022, at the principal office of the Board in Salt Lake City, Utah; such Notice of Annual Meeting Schedule having continuously remained so posted and available for public inspection during the regular office hours of the undersigned until the date hereof; and by causing a copy of such Notice of Annual Meeting Schedule to be provided during or before January 2022 to a newspaper of general circulation within the geographic jurisdiction of Salt Lake City, Utah; and causing a Notice of Annual Meeting Schedule to be posted during or before January 2022 at the Utah Public Notice Website; and

(c) the Board has adopted written procedures governing the holding of electronic meetings in accordance with Section 52-4-207 Utah Code Annotated 1953, as amended (a copy of which is attached hereto as *Exhibit C*). In accordance with such provisions and the aforementioned procedures, notice was given to each member of the Board and to members of the public at least 24 hours before the meeting to allow members of the Board and the public to participate electronically in the meeting, including a description of how they could be connected to the meeting.

IN WITNESS WHEREOF, I have hereunto subscribed my official signature and impressed hereon the official seal of the Utah Board of Higher Education, this 20th day of May, 2022.

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Secretary

[SEAL]

## SCHEDULE A

### PARAMETERS

PRINCIPAL AMOUNT:	Not to exceed \$12,000,000.
TERM:	Not to exceed 31 years from their date or dates.
INTEREST RATE:	Fixed rates such that no coupon rate exceeds 5.50% per annum.
REDEMPTION FEATURES:	Optional redemption at not to exceed 100% of par within ten and a half years of issuance.
SALE PRICE:	Not less than 98% of the principal amount of the Bonds.

**EXHIBIT A**

[ATTACH NOTICE OF PUBLIC MEETING]

**EXHIBIT B**

[ATTACH NOTICE OF ANNUAL MEETING SCHEDULE]

**EXHIBIT C**

[ATTACH ELECTRONIC MEETING POLICY]