

8-13-2009

## Board of Trustees Meeting Minutes 2009-08-13

Bowling Green State University

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**SPECIAL MEETING MINUTES**

Board of Trustees  
Bowling Green State University  
August 13, 2009

Notice having been given in accordance with the Board of Trustees Bylaws, the following members met at the Atwood Lake Resort and Conference Center on August 13, 2009: J. Robert Sebo, Chair; John Harbal, Stephanie Imhoff, K.B. Lake, David Levey, John Moore, Bill Primrose, Debra Ryan, and Fran Voll.

Also present: Carol Cartwright, President; Patrick Pauken, Secretary to the Board; Albert Colom, Vice President for Enrollment Management; Sean FitzGerald, General Counsel and Assistant to the President; Steve Krakoff, Associate Vice President, Capital Planning/Design and Construction; Joe Oravec, Associate Vice President, Student Affairs; Tom Page, Special Assistant to the Vice President for Finance and Administration; Sherideen Stoll, Vice President for Finance and Administration; Edward Whipple, Vice President for Student Affairs; and Hal Brown (Sentinel-Tribune).

Chair Sebo called the meeting to order at 1:15 p.m. The Board Secretary called the roll and announced that a quorum was present (8 trustees). Dr. Lake arrived at 1:18pm.

Chair Sebo welcomed Dr. Kenneth W. Borland, Provost and Vice President for Academic Affairs at East Stroudsburg University. Dr. Borland participated via telephone.

Approval of Residence Hall and Dining Hall Master Plan

No. 1-2010 Mr. Voll moved and Mr. Primrose seconded that:

WHEREAS, The Board of Trustees recognizes that planning for the University's long term residential and dining facilities and physical environment is a valuable and critical requirement for accomplishing the University's mission and enhancing the living and learning experiences for students, faculty, staff, visitors and community members, and

WHEREAS, the Offices of Residence Life and Dining Services, in consultation with the Office of Capital Planning and Design, along with numerous campus and community constituents, have worked with professional consultants to perform a review of the existing residential and dining facilities, and

WHEREAS, a long term plan has been developed containing broad goals and recommendations for a multi-phased revitalization, rehabilitation, renovation or replacement of the University's existing residence and dining halls, and

WHEREAS, the appropriate University offices have reviewed the proposed Residence and Dining Hall Master Plan and recommend its adoption,

NOW, THEREFORE, BE IT RESOLVED, that the Bowling Green State University Board of Trustees hereby adopts the proposed Residence and Dining Hall Plan.

The Board Secretary conducted a roll call vote with the following results: Voting "yes" – Mr. Harbal, Ms. Imhoff, Mr. Levey, Mr. Moore, Mr. Primrose, Ms. Ryan, Mr. Sebo, and Mr. Voll. The motion was approved with eight affirmative votes. (Dr. Lake was not present for the vote.)

Authorizing the issuance of General receipts Bonds, Series 2010 and Refinancing Outstanding Obligations

No. 2-2010 Mr. Voll moved and Mr. Moore seconded that:

WHEREAS, the Board of Trustees (the Board) of Bowling Green State University, a state university of the state of Ohio (the University), is authorized by Sections 3345.11 and 3345.12 of the Revised Code, enacted by the General Assembly under authority of the Constitution of Ohio and particularly Section 2i of Article VIII, to issue obligations to pay costs of University facilities and to refund obligations previously issued to pay costs of University facilities; and

WHEREAS, the Trust Agreement dated as of December 1, 1971 between the University and JPMorgan Chase Bank, as successor to Chemical Bank, as Trustee, as supplemented and amended (the Trust Agreement), provides for the issuance, from time to time, of General Receipts Bonds of the University, with each issue to be authorized by a Series Resolution adopted by the Board pursuant the Trust Agreement; and

WHEREAS, this Board has determined to finance by the issuance of General Receipts Bonds in a principal amount not to exceed \$85,000,000 the costs of various improvements to the University's campus, including a new convocation center, improvements to rehabilitate residence halls, replacement roofs on academic, administrative and other campus buildings, energy conservation improvements, demolition of structures in furtherance of a master plan for campus development, surface parking to replace existing parking lots located on land needed for the convocation center, and the acquisition of furnishings and equipment; and

WHEREAS, this Board has further determined to authorize the issuance and sale of General Receipts Bonds to refund one or more series of outstanding General Receipts Bonds, in whole or in part, in order to obtain debt service savings, as may be determined, from time to time, by the University's Fiscal Officer;

NOW, THEREFORE, BE IT RESOLVED, by the Bowling Green State University Board of Trustees as follows:

**Section 1. Definitions and Interpretations.** Where used in this Resolution, the Supplemental Trust Agreement for the applicable series of Series 2010 Bonds and the related Certificate of Award, and in addition to words and terms defined elsewhere in this Resolution, the Trust Agreement and the applicable Supplemental Trust Agreement, the following terms shall have the following meanings:

"Act" means Sections 3345.11 and 3345.12 of the Revised Code, including the provisions of Sections 9.96 and 9.98 to 9.983 of the Revised Code incorporated therein.

"Bond Purchase Agreement" means any Bond Purchase Agreement between the Original Purchaser and the University relating to the sale and purchase of Series 2010 Bonds.

"Book Entry Form" or "book entry system" means a form or system under which physical Bond certificates in fully registered form are issued only to a Securities Depository or its nominee as registered owner, with the certificated Bonds held by and immobilized in the custody of the Securities Depository or its agent, and the book entry system, maintained by and the responsibility of others than the University or Trustee, is the record that identifies, and records the transfer of the interests of, the owners of book entry interests in those Bonds.

"Build America Bonds" means, with respect to the University, obligations issued as taxable governmental bonds or notes with Federal subsidies in the form of either tax credits to holders or refundable tax credits paid to the University as issuer, authorized under Sections 1401 or 1531 of Title I of Division (B) of the American Recovery and Reinvestment Act of 2009, Pub.L. No. 111-5, 123 Stat. 115, and any amendments of or successor provision to the foregoing.

"Certificate of Award" means collectively the Certificates of Award authorized pursuant to Section 5.

"Code" means the Internal Revenue Code of 1986, the regulations (whether proposed, temporary or final) under that Code or the statutory predecessor of that Code, and any amendments of or successor provisions to the foregoing, and any official rulings, announcements, notices, procedures and judicial determinations regarding any of the foregoing, all as and to the extent applicable. Unless otherwise indicated, reference to a section of the Code includes that section and those applicable regulations, rulings, announcements, notices, procedures and determinations pertinent to that section.

"Credit Support Instrument" means an insurance policy, surety bond, letter of credit or standby bond purchase agreement or other credit enhancement, support or liquidity device used to enhance or provide for the security or liquidity of Series 2010 Bonds.

"Fiscal Officer" means the Chief Financial Officer and Vice President for Finance and Administration of the University (being the "Fiscal Officer" as defined in the General Bond Resolution), and also means, as an alternate as authorized by the General Bond Resolution, the President of the University.

"General Bond Resolution" means the resolution adopted by the Board on August 28, 1971, providing for the issuance from time to time of General Receipts Bonds of the University and constituting part of the Trust Agreement.

"Interest Payment Dates" means June 1 and December 1 of each year or such other dates provided in the Certificate of Award for the applicable series of Series 2010 Bonds.

"Master Lease Purchase Agreement" means the Lease Purchase Agreement dated as of September 12, 2008, as supplemented and amended, between PNC Equipment Finance, LLC, as lessor, and the University, as lessee.

"Note Certificate of Award" means, as to any Series of Notes, the Note Certificate of Award authorized in Section 10.

"Notes" means temporary bonds or notes (including renewal notes) or other obligations of the University authorized to be issued under this Resolution to provide interim financing for the Series 2010 Bonds Projects.

"Original Purchaser" means the financial institution or institutions selected by the Fiscal Officer to purchase or underwrite one or more series of Series 2010 Bonds and identified in the Certificate of Award.

"Outstanding Bonds" means any of the following Series of General Receipts Bonds issued and Outstanding under the Trust Agreement: Series 2000 Bonds issued in the original principal amount of \$54,660,000 pursuant to the Seventh Supplemental Trust Agreement dated as of November 15, 2000; Series 2003 Bonds issued in the original principal amount of \$27,225,000 pursuant to the Eighth Supplemental Trust Agreement dated as of May 1, 2003; Series 2004 Bonds issued in the original principal amount of \$40,570,000 pursuant to the Ninth Supplemental Trust Agreement dated

as of October 1, 2004; and Series 2005 Bonds issued in the original principal amount of \$28,345,000 pursuant to the Tenth Supplemental Trust Agreement dated as of June 1, 2005.

“Refunded Bonds” means one or more series of the Outstanding Bonds or portions thereof to be refunded by a series of Series 2010 Bonds as determined and identified in a Certificate of Award.

“Register” means the books kept and maintained by the Trustee, as Bond Registrar, for the registration, exchange and transfer of Bonds pursuant to the Trust Agreement.

“Registered Owner” means the person in whose name a Bond is registered on the Register.

“Securities Depository” means any securities depository that is a clearing agency under federal law operating and maintaining, with its participants or otherwise, a book entry system to record ownership and effect transfers of book entry interests in bonds, and includes and means initially The Depository Trust Company (a limited purpose trust company), New York, New York.

“Series Resolution” or “this Resolution” means this Resolution authorizing the issuance and sale of the Series 2010 Bonds in one or more series, and including the applicable Certificate of Award for the series.

“Series 2010 Bonds” means the General Receipts Bonds authorized by this Resolution which may be issued in one or more series at the same time or at different times.

“Series 2010 Bonds Projects” means the acquisition, construction, reconstruction, rehabilitation, furnishing and equipping of “facilities” as defined in Revised Code Section 3345.12(A)(6), including without limitation, a new convocation center, improvements to rehabilitate residence halls, replacement roofs on academic, administrative and other campus buildings, energy conservation improvements, demolition of structures in furtherance of a master plan for campus development, surface parking to replace existing parking lots located on land needed for the convocation center, the acquisition of furnishings and equipment, and other improvements to University Facilities approved by this Board, including in each case all related costs constituting “costs of facilities” as defined in Revised Code Section 3345.12(A)(10).

“Supplemental Trust Agreement” means with respect to each series of Series 2010 Bonds, the applicable Supplemental Trust Agreement between the University and the Trustee, authorized pursuant to Section 8 of this Resolution, including as part thereof this Resolution and the applicable Certificate of Award.

“Tax-Exempt Bonds” means, with respect to the University, obligations issued as bonds or notes the interest on which is excluded from gross income for federal income tax purposes.

Unless the context otherwise indicates, words importing the singular number shall include the plural number, and vice versa, and the terms “hereof,” “herein,” “hereby,” “hereto,” “hereunder,” and similar terms, mean this Resolution and the applicable Supplemental Trust Agreement authorized by this Resolution. References to sections, unless otherwise stated, are to sections of this Resolution.

**Section 2. Authority.** This Resolution is adopted pursuant to the Trust Agreement (including the General Bond Resolution) and the Act.

**Section 3. Authorization, Designation and Purpose of Series 2010 Bonds.** It is hereby declared to be necessary to, and the University shall, issue, sell and deliver, as provided and authorized in this Resolution and the Supplemental Trust Agreement, General Receipts Bonds of the University in one or more series, for the purpose of paying costs of the Series 2010 Bonds Projects, including refinancing the University’s obligations under the Master Lease-Purchase Agreement that funded

certain of those costs, and refunding the Refunded Bonds. The principal amount of each Series of Series 2010 Bonds is to be the amount set forth in the Certificate of Award for that series, determined on the basis of the Fiscal Officer's certification in that Certificate of (i) the amount required for the Series 2010 Bonds Projects (including refinancing the University's obligations under the Master Lease-Purchase Agreement), provided that amount shall not exceed \$85,000,000, and (ii) the amount required to accomplish the refunding of the Refunded Bonds in order to obtain debt service savings. The proceeds from the sale of each series of Series 2010 Bonds shall be allocated, deposited and applied as provided in Section 6.

The Series 2010 Bonds may be issued in one or more separate series, each bearing a distinctive designation, provided that the Series 2010 Bonds of each series satisfy the requirements of this Resolution. A single series of Series 2010 Bonds may be issued to pay costs of the Series 2010 Bonds Projects and refund one or more series of Outstanding Bonds or separate series of Series 2010 Bonds may be issued to pay costs of the Series 2010 Bonds Projects and to refund one or more series of Outstanding Bonds. Separate series of Series 2010 Bonds may be issued at the same or different times. The Series 2010 Bonds of each series shall be designated as provided in the applicable Certificate of Award. If separate series of Series 2010 Bonds are issued at different times, a separate Certificate of Award and Supplemental Trust Agreement shall be signed and delivered for each Series.

The Fiscal Officer, in connection with any series of Series 2010 Bonds is authorized to contract for one or more Credit Support Instruments, and to pay the costs of them from proceeds of the Series 2010 Bonds, if she determines that each Credit Support Instrument will result in a savings in the cost of the financing to the University.

#### **Section 4. Terms and Provisions Applicable to the Series 2010 Bonds.**

- (a) **Form and Numbering.** The Series 2010 Bonds shall be issued only as fully registered Bonds and substantially in the form set forth in the Supplemental Trust Agreement for the related series of Series 2010 Bonds, and shall be numbered as determined by the Fiscal Officer.

The Series 2010 Bonds shall only be issued to a Securities Depository for holding in a book entry system and: (i) those Bonds shall be registered in the name of the Securities Depository or its nominee, as registered owner, and immobilized in the custody of the Securities Depository or its agent; and (ii) those Bonds as such shall not be transferable or exchangeable, except for transfer to another Depository or to another nominee of a Depository without further action by the University as provided in the Supplemental Trust Agreement for the related series of Series 2010 Bonds.

- (b) **Denominations and Dates.** The Series 2010 Bonds shall be dated as of their date of issuance or as of another date as may be stated in the Certificate of Award for the related series of Series 2010 Bonds. The Series 2010 Bonds of each series shall be issued in the denominations authorized in the applicable Supplemental Trust Agreement.
- (c) **Interest.** The Series 2010 Bonds of each series shall bear interest from their respective dates payable on the Interest Payment Dates at the respective rates per year to be determined by the Fiscal Officer and set forth in the Certificate of Award and Supplemental Trust Agreement for the related series of Series 2010 Bonds. If the Series 2010 Bonds are issued as Tax-Exempt Bonds, the weighted average interest rate of all such Series 2010 Bonds of a series shall not exceed seven percent (7%) per year. If the Series 2010 Bonds are issued as Build America Bonds, the weighted average interest rate of all such Series 2010 Bonds of a series shall not exceed nine percent (9%) per year.

(d) **Maturities.** The Series 2010 Bonds of each series shall mature on the dates and in the amounts as the Fiscal Officer determines, provides and states in the Certificate of Award, provided that no Series 2010 Bonds shall mature later than June 1, 2045.

(e) **Prior Redemption.**

(i) **Term Bonds--Mandatory Redemption.** If provided for in the Certificate of Award, Series 2010 Bonds maturing in a particular year may be consolidated with the principal amount of Series 2010 Bonds of the same series maturing in one or more prior consecutive years to provide for Term Bonds maturing in that later year in the aggregate principal amount of those consolidated maturities. Any such Term Bonds shall be subject to mandatory redemption by the University pursuant to mandatory sinking fund requirements at a redemption price equal to 100% of the principal amount redeemed, plus accrued interest to the date of redemption, on the dates and in the principal amounts as determined by the Fiscal Officer in the Certificate of Award. The amounts required to be paid to the Bond Service Account shall include amounts sufficient to redeem (less the amount of any credit as provided in the Supplemental Trust Agreement for the related series of Series 2010 Bonds) on each principal payment date in the respective principal amounts of any Term Bonds subject to mandatory sinking fund redemption.

At its option, to be exercised on or before the 45th day next preceding any mandatory sinking fund redemption date, the University may (i) deliver to the Trustee for cancellation Term Bonds, in any aggregate principal amount desired, or (ii) receive a credit in respect to the mandatory sinking fund requirement (and corresponding mandatory redemption obligation) of the University for any Term Bonds of the same series maturing in the same year as the Term Bonds so delivered to the Trustee, which prior to that date have been redeemed (other than through the operation of the mandatory sinking fund requirements provided for) or purchased for cancellation and cancelled by the Trustee and not theretofore applied as a credit against any mandatory sinking fund requirement (and corresponding mandatory redemption obligation). Each Term Bond so delivered or previously redeemed or purchased for cancellation shall be credited by the Trustee at 100% of its principal amount against the mandatory sinking fund requirement (and corresponding mandatory redemption obligation) of the University on that redemption date with respect to Term Bonds maturing in the same year and any credit in excess of that amount may be credited against future mandatory sinking fund requirements with respect to Term Bonds of the same series maturing in the same year. If the University intends to avail itself in any year of the provisions of this paragraph, the University will on or before the 45th day next preceding the mandatory redemption date of that year furnish the Trustee with a certificate, signed by the Fiscal Officer, stating the extent to which the provisions of clauses (i) and (ii) above in this paragraph are to be availed of with respect to such mandatory sinking fund requirement (and corresponding mandatory redemption obligation). Unless that certificate is so timely furnished by the University, the mandatory sinking fund requirement (and corresponding mandatory redemption obligation) for that year shall not be reduced.

(ii) **Optional Redemption.** Series 2010 Bonds of any series and of one or more maturities may, as determined in the Certificate of Award, be subject to redemption at the option of the University prior to their stated maturities, in whole or in part (as directed by the University), from moneys other than those deposited in accordance with any mandatory sinking fund requirements as provided above, on the dates and at the redemption prices set forth in the Certificate of Award; provided that the first redemption date shall be not later than ten years from the first Interest Payment Date for Series 2010 Bonds of that series and the highest redemption price for Series 2010 Bonds issued as Tax-Exempt Bonds shall not exceed 102%. The terms for any redemption prior to maturity of Series 2010 Bonds of any series issued as Build America Bonds shall be determined by the Fiscal Officer in the Certificate of Award, and those terms may require a make whole premium to be paid to the holder of any such Series 2010 Bonds upon redemption prior to stated maturity. If determined to

provide lower interest costs and to be in the best interest of the University, as may be provided in the Certificate of Award, the Fiscal Officer may determine that none of the maturities of Series 2010 Bonds of any series will be subject to optional redemption prior to maturity or that certain maturities of Series 2010 Bonds of any series will not be subject to optional redemption prior to maturity.

- (iii) **Partial Redemption.** If fewer than all of the outstanding Series 2010 Bonds of any series of one maturity, if at the time not registered in the name of a Securities Depository or its nominee, are to be called for redemption, the selection of the Bonds or portions of those Bonds (in denominations authorized in the applicable Supplemental Trust Agreement) of that maturity to be called for redemption shall be made by lot in the manner provided in the Trust Agreement. If optional redemption of Series 2010 Bonds of any series at a redemption price above 100% of the principal amount to be redeemed is to take place on any applicable mandatory sinking fund redemption date, the Bonds to be optionally redeemed shall be selected prior to the selection of the Term Bonds to be redeemed by mandatory sinking fund redemption.
- (iv) **Notice.** Notice of call for redemption of Series 2010 Bonds of any series, setting forth the information provided for in the Trust Agreement, shall be given by mail by the Trustee on behalf of the University, mailed not less than 30 days prior to the redemption date to the registered owners of the Series 2010 Bonds to be redeemed in whole or in part at their addresses appearing on the Register. Notice by publication shall not be required. Any defect in that notice as to any 2010 Bond shall not affect the validity of the proceedings for the redemption of any other 2010 Bond, and any failure to receive notice duly mailed shall not affect the validity of the proceedings for the redemption of any Series 2010 Bonds.
- (f) **Places and Manner of Payment.** The Series 2010 Bonds shall be payable at the places and in the manner provided in the Supplemental Trust Agreement for the related series of Series 2010 Bonds.
- (g) **Execution and Authentication.** The Series 2010 Bonds shall be executed and authenticated in the manner provided in the Trust Agreement.

#### **Section 5. Sale and Award of Series 2010 Bonds.**

- (a) **General; Certificate of Award.** The Series 2010 Bonds are sold and awarded to the Original Purchaser in accordance with this Resolution and the Certificate of Award, and on such further or revised terms authorized or not inconsistent with this Resolution and not materially adverse to the University as are provided for or specified in the Certificate of Award and any Bond Purchase Agreement. The purchase price for any series of Series 2010 Bonds may not be less than 98% of the aggregate principal amount of the Series 2010 Bonds of that series (or, if the Series 2010 Bonds are sold at any original issue discount, 98% of the amount resulting from the subtraction of the aggregate net original issue discount from the aggregate original principal amount of the Series 2010 Bonds), plus any interest accrued on Series 2010 Bonds from their date to their delivery date. The original issue discount, if any, shall not exceed in the aggregate 5% with respect to the Series 2010 Bonds of any series. The Fiscal Officer is authorized and directed to execute one or more Certificates of Award and any Bond Purchase Agreements for the related series of Series 2010 Bonds, in order to provide for the definitive terms and terms of sale and award to the Original Purchaser of the Series 2010 Bonds of each series as provided in this Resolution, but not later than July 1, 2011. The Certificate of Award and any Bond Purchase Agreement for any series of Series 2010 Bonds shall not be inconsistent with this Resolution, and shall be approved by the Fiscal Officer, her execution of the Bond Purchase Agreement to constitute conclusive approval, and a finding that the terms are not materially adverse to the University, on behalf of the University. The Certificate of Award for the related series of Series 2010 Bonds shall be incorporated in and form a part of the related Supplemental Trust Agreement.



- (b) **Official Statement.** The Fiscal Officer is authorized and directed to prepare or authorize to be prepared, and to complete a preliminary official statement and final official statement relating to the original issuance of any series of Series 2010 Bonds. If and to the extent applicable, the Fiscal Officer shall certify or otherwise represent, that the preliminary official statement, in original or revised form, is a "deemed final" official statement (except for permitted omissions) by the University as of a particular date and that a completed version is a "final" official statement for purposes of Rule 15c2-12 adopted by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934 (the Rule). The distribution and use of a preliminary official statement and final official statement by the University and the Original Purchaser is hereby authorized and approved with respect to Series 2010 Bonds of any series.

The Fiscal Officer and any other appropriate officers of the University or the Board are further authorized (i) to use and distribute, or authorize the use and distribution of, the preliminary and final official statement and supplements thereto in connection with the original issuance of Series 2010 Bonds of any series as may in their judgment be necessary or appropriate, and (ii) to sign and deliver, on behalf of the University and in their official capacities, such certificates in connection with the accuracy of the preliminary and final official statements and any amendment thereto as may in their judgment be necessary or appropriate.

- (c) **Continuing Disclosure Agreement.** If and to the extent required by the Rule, the University, for the benefit of the holders and beneficial owners of the Series 2010 Bonds, shall make a continuing disclosure agreement in the Supplemental Trust Agreement for the related series of the Series 2010 Bonds. The Fiscal Officer shall have the responsibility for the compliance by the University with that continuing disclosure agreement, and the Fiscal Officer shall establish procedures in order to ensure that compliance. That continuing disclosure agreement shall be the continuing disclosure agreement for purposes of the Rule, and its performance shall, as provided in it, be subject to the annual appropriation by the Board of moneys to meet costs required to be incurred to perform it.

#### **Section 6. Allocation of Proceeds of Series 2010 Bonds.**

- (a) **Allocation.** The proceeds from the sale of the Series 2010 Bonds of each series shall be received and receipted for by the Fiscal Officer or by her authorized representative for that purpose, and shall be allocated, deposited and credited as follows:
- (i) to the Bond Service Account in the Bond Service Fund, any portion of the proceeds representing accrued interest;
  - (ii) to the provider of any Credit Support Instrument, if provided for in the Certificate of Award, the amount that Certificate provides to pay fees and expenses relating to that Instrument;
  - (iii) to the Project Fund described below, the amount set forth in the Certificate of Award to be used to pay costs of the Series 2010 Bonds Projects, including payment to the lessor under the Master Lease-Purchase Agreement of the amount necessary to prepay the University's obligations under that Agreement);
  - (iv) to the Trustee, the amount set forth in the Certificate of Award as the amount needed to provide for the refunding of Refunded Bonds; and
  - (v) in the event that a series of Series 2010 Bonds is issued to refund Outstanding Bonds separately from a series issued to pay costs of the Series 2010 Bonds Projects, to the Issuance Expenses Fund described below, the amount determined by the Fiscal Officer to be needed to pay costs of issuing the Series 2010 Bonds of that series and refunding the Refunded Bonds to be refunded by that series.

- (b) **2010 Project Fund.** A fund (the 2010 Project Fund) shall be established for each series of Series 2010 Bonds issued to pay costs of the Series 2010 Bonds Projects and shall be held by the University or the Trustee in a separate deposit account or accounts (except when invested as provided below) set up in a bank or banks that are members of the Federal Deposit Insurance Corporation, and used and applied to pay "costs of facilities" as defined in Revised Code Section 3345.12, including the reimbursement to the University of moneys temporarily advanced for the purpose in anticipation of being reimbursed from the proceeds of the Series 2010 Bonds. Moneys on deposit in the 2010 Project Fund may be invested by or at the direction of the Fiscal Officer in eligible investments described in the Supplemental Trust Agreement maturing or redeemable at the option of the holder prior to the time or times needed for the purposes of that fund. Those investments and the proceeds of their sale shall constitute part of, and earnings from any of those investments shall be credited to, that Fund. Those investments may be sold, exchanged or collected from time to time by or at the direction of the Fiscal Officer. Any amounts in the 2010 Project Fund certified by the Fiscal Officer to be in excess of the amount needed to pay costs of the Series 2010 Bonds Projects may be used to pay principal of or interest on the Series 2010 Bonds of the series that funded the Series 2010 Bonds Projects if that expenditure will not, in the opinion of bond counsel to the University, (i) in the case of Tax-Exempt Bonds, adversely affect the exclusion of interest on the Series 2010 Bonds from gross income for federal income tax purposes, or (ii) in the case of Build America Bonds, adversely effect the University's receipt of refundable tax credit payments.
- (c) **Issuance Expenses Fund.** In the event that a series of Series 2010 Bonds issued for the purpose of refunding Outstanding Bonds is delivered at a different time from the delivery of a series of Series 2010 Bonds issued to pay costs of the Series 2010 Bonds Projects, there shall be established an Issuance Expenses Fund to be held by the University or the Trustee in a separate deposit account or accounts (except when invested as provided below) set up in a bank or banks that are members of the Federal Deposit Insurance Corporation, and used and applied to pay costs of issuing that series of Series 2010 Bonds issued to refund Outstanding Bonds and costs of the refunding. The University covenants that it will not cause or permit to be paid from the Issuance Expenses Fund any moneys except in compliance with the provisions of the Supplemental Trust Agreement for the related series of Series 2010 Bonds.

Moneys on deposit in the Issuance Expenses Fund may be invested by or at the direction of the Fiscal Officer in such investments as may be permitted by the Supplemental Trust Agreement for the related series of Series 2010 Bonds, maturing or redeemable at the option of the holder prior to the time needed for the purposes of that Fund. Those investments and the proceeds of their sale shall constitute part of, and earnings from any of those investments shall be credited to, that Fund. Those investments may be sold, exchanged or collected from time to time by or at the direction of the Fiscal Officer. Any balance remaining in the Issuance Expenses Fund, after the Fiscal Officer has certified that payment of all costs to be paid from that fund has been made or provided for to the satisfaction of the University, shall be deposited in the Bond Service Account and used for payment of interest on the Series 2010 Bonds of that series.

#### Section 7. **Tax Covenants.**

- (a) **Covenants.** The Board, for itself and the University, hereby covenants with respect to any series of Series 2010 Bonds issued as Tax-Exempt Bonds that:
- (i) It will use, and will restrict the use and investment of, the proceeds of the Series 2010 Bonds in such manner and to such extent as may be necessary so that (A) those Bonds will not constitute private activity bonds, arbitrage bonds or hedge bonds under Section 141, 148 or 149 of the Code, or be treated other than as bonds to which Section 103 of the Code applies, and (B) the interest on those Bonds will not be treated as a preference item under Section 57 of the Code.

- (ii) It (a) will take or cause to be taken such actions that may be required of it for the interest on the Series 2010 Bonds to be and remain excluded from gross income for federal income tax purposes, and (b) will not take or authorize to be taken any actions that would adversely affect that exclusion, and that it, or persons acting for it, will, among other acts of compliance, (1) apply the proceeds of the Series 2010 Bonds to the governmental purpose of the borrowing, (2) restrict the yield on investment property, (3) make timely and adequate payments to the federal government, (4) maintain books and records and make calculations and reports, and (5) refrain from certain uses of those proceeds and of property financed with those proceeds, all in such manner and to the extent necessary to assure that exclusion of that interest under the Code.

The Fiscal Officer and other appropriate officers are authorized (i) to make or effect any election, selection, designation, choice, consent, approval or waiver on behalf of the University with respect to the Series 2010 Bonds as the University is permitted to make or give under the federal income tax laws, including, without limitation, any of the elections provided for in Section 148(f)(4)(C) of the Code or available under Section 148 of the Code, for the purpose of assuring, enhancing or protecting favorable tax treatment or status of the Series 2010 Bonds or interest thereon or assisting compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing the rebate amount or payments of penalties, or making payments of special amounts in lieu of making computations to determine, or paying, excess earnings as rebate, or obviating those amounts or payments, as determined by that officer, which action shall be in writing and signed by the officer, (ii) to take any and all other actions, make or obtain calculations, make payments, and make or give reports, covenants and certifications of and on behalf of the University, as may be appropriate to assure the exclusion of interest from gross income and the intended tax status of the Series 2010 Bonds, and (iii) to give one or more appropriate certificates, for inclusion in the transcript of proceedings for those Bonds, setting forth the reasonable expectations of the University regarding the amount and use of all the proceeds of those Bonds, the facts, circumstances and estimates on which they are based, and other facts and circumstances relevant to the tax treatment of the interest on and the tax status of the Series 2010 Bonds.

**Section 8. Supplemental Trust Agreements.** The President of the University, the Chief Financial Officer and Vice President for Finance and Administration of the University and the Chair and Vice-Chair of the Board, or any two of them, are authorized and directed to execute and deliver to the Trustee, in the name of and on behalf of the University, and the Secretary to the Board is authorized to attest, a Supplemental Trust Agreement pursuant to the Trust Agreement and in connection with the issuance each series of Series 2010 Bonds, not substantially adverse to the University as may be permitted by the Act and the Trust Agreement and approved by the officers executing it on behalf of the University.

**Section 9. Refunding of Refunded Bonds.** The principal of and interest and any applicable call premium on the Refunded Bonds shall be paid when due from cash and direct obligations of the United States (or either) on deposit with, or held for the credit of, the Trustee in accordance with the Trust Agreement or any escrow agreement that may be provided for the Refunded Bonds (the "Escrow Agreement"). The Fiscal Officer is authorized on behalf of the University to make arrangements for the purchase of any such direct obligations from the proceeds of the Series 2010 Bonds and other sources of moneys and for the delivery to the Trustee, if required under the circumstances, of a report of an independent public accounting firm of national reputation to the effect that the cash and direct obligations so held by the Trustee are of such maturities and interest payment dates and bear such interest as will, without further investment or reinvestment of either the principal amount thereof or the interest earnings therefrom, be sufficient to pay the principal of and the interest and any premium on the Refunded Bonds on the dates set forth in the Certificate of Award and thereby discharge and satisfy the covenants, agreements and other obligations of the University with respect to those Bonds

under the Trust Agreement and cause those Bonds to be deemed paid and discharged pursuant to, and no longer to be outstanding under, the Trust Agreement.

A trust fund, designated Bowling Green State University – Escrow Account, shall be created for each Series of Refunded Bonds, in the custody of the Trustee as Escrow Trustee, and as a subaccount of the Bond Redemption and Purchase Account of the Bond Service Fund established under the Trust Agreement. The cash and securities in that Account, together with the earnings on and investments in that Account, shall be held in trust for and shall be used for the payment of the principal of and interest and any redemption premium on the applicable Refunded Bonds.

The Fiscal Officer is authorized and directed to take any and all actions necessary and appropriate to effect the early call for redemption, pursuant to the Trust Agreement and applicable Series Resolution, of those Refunded Bonds to be redeemed prior to maturity, including publication and mailing of any notices. Any amounts released to the University from the funds and accounts held by the Trustee under the Trust Agreement or any Escrow Agreement shall be applied as set forth in the related Supplemental Trust Agreement or Escrow Agreement. The Chair or Vice Chair of the Board, the President of the University, and the Chief Financial Officer and Vice President for Finance and Administration of the University, or any two or more of them, are authorized to execute and deliver to the Trustee, in the name of and on behalf of the University, one or more Escrow Agreements for the Refunded Bonds. The Board hereby determines to provide for the payment of the principal of and the interest and any redemption premium on the Refunded Bonds as provided in this Resolution.

**Section 10. Notes.** In order to obtain interim financing for any of the Series 2010 Bonds Projects, the University may issue notes in anticipation of the issuance of Series 2010 Bonds (Notes) to pay costs of such Series 2010 Bonds Projects (including refinancing the University's obligations under the Master Lease-Purchase Agreement) and to refund any Notes previously issued pursuant to this Resolution. The Notes may be issued in one or more series each bearing a distinctive designation, provided that the Notes of each series satisfy the requirements of this Resolution. Separate series of Notes may be issued at the same or different times. The Notes shall be awarded and sold to the Original Purchase selected by the Fiscal Officer and identified in the Note Certificate of Award, and in accordance with this Resolution and the Note Certificate of Award, and on such further or revised terms authorized or not inconsistent with this Resolution and not materially adverse to the University as are provided for or specified in the Note Certificate of Award. The Notes shall be awarded, sold and issued, and the proceeds of the Notes shall be applied, pursuant to this Resolution, the Trust Agreement, a Supplemental Trust Agreement and the Note Certificate of Award, and may be the subject of Credit Support Instruments, in the same manner and subject to the same limitations, terms, conditions and covenants as are provided in this Resolution with respect to the Series 2010 Bonds; provided, that no series of Notes shall mature later than five (5) years from their date of issuance, the Notes may, but need not be, delivered in book entry form, and the proceeds of Notes issued to refund Notes previously issued shall be used to pay the costs of that refunding and of issuing the refunding Notes. The Notes shall be payable from the sources and secured as provided in the Trust Agreement and applicable Supplemental Trust Agreement or other agreement securing the Notes. The authorization of University officials to sign documents and take other actions with respect to the issuance of Series 2010 Bonds shall also apply to the signing of documents and taking of other actions with respect to the issuance of Notes.

**Section 11. Other Documents.** The President of the University, the Chief Financial Officer and Vice President for Finance and Administration of the University, and the Chair and Vice-Chair of the Board, or any one of them, are authorized and directed to furnish, sign and deliver such other documents, certificates and instruments as may be necessary or appropriate to issue the Series 2010 Bonds and to consummate the transactions contemplated in this Resolution, the Supplemental Trust

Agreement, the Bond Purchase Agreement, and any Escrow Agreement, each as applicable to the related series of Series 2010 Bonds. The Secretary to the Board or other appropriate officials of the University shall furnish the Original Purchaser a true transcript of proceedings certified by such officers of the University as may be appropriate of all proceedings had with reference to the issuance of the Series 2010 Bonds.

**Section 12. Open Meeting.** It is found and determined that all formal actions of this Board concerning and relating to the adoption of this Resolution were taken in an open meeting of this Board, and that all deliberations of this Board and of any of its committees that resulted in those formal actions were taken in meetings open to the public, in full compliance with applicable legal requirements, including Section 121.22 of the Revised Code.

The Board Secretary conducted a roll call vote with the following results: Voting "yes" – Mr. Harbal, Ms. Imhoff, Dr. Lake, Mr. Levey, Mr. Moore, Mr. Primrose, Ms. Ryan, Mr. Sebo, and Mr. Voll. The motion was approved with nine affirmative votes.

Approval of University Policy on Furloughs

No. 3-2010 Mr. Moore moved and Dr. Lake seconded that:

WHEREAS, the Ohio Biennial Budget was recently enacted into law as HB1; and

WHEREAS, as part of HB1, ORC 371.70.20(B) was enacted and provides that: "The board of trustees of any state institution of higher education, notwithstanding any rule of the institution to the contrary, may adopt a policy providing for mandatory furloughs of employees, including faculty, to achieve spending reductions necessitated by institutional budget deficits."; and

WHEREAS, the Bowling Green State University Board of Trustees recognizes the importance and necessity of granting such authority to the University President;

NOW, THEREFORE, BE IT RESOLVED, that the Bowling Green State University Board of Trustees hereby adopts the furlough policy as attached.

The Board Secretary conducted a roll call vote with the following results: Voting "yes" – Mr. Harbal, Ms. Imhoff, Dr. Lake, Mr. Levey, Mr. Moore, Mr. Primrose, Ms. Ryan, Mr. Sebo, and Mr. Voll. The motion was approved with nine affirmative votes.

Appointment of Dr. Kenneth W. Borland, Jr., as Senior Vice President for Academic Affairs and Provost, and as Full Professor with Tenure in the Department of Higher Education and Student Affairs in the College of Education and Human Development

No. 4-2010 Mr. Harbal moved and Ms. Imhoff seconded that the Board of Trustees ratify the appointment of Dr. Kenneth W. Borland, Jr., as Senior Vice President for Academic Affairs and Provost, and approve the appointment of Dr. Borland as a full professor with tenure in the Department of Higher Education and Student Affairs in the College of Education and Human Development.

A voice vote was taken and all voted in the affirmative.

Dr. Borland offered words of thanks and appreciation to the Board, President Cartwright, and the University Community for the opportunity to serve BGSU as Senior Vice President for Academic Affairs and Provost.

#### **ANNOUNCEMENTS**

The next regular board meeting is scheduled for October 2, 2009.

#### **ADJOURNMENT**

The meeting was adjourned at 1:25 p.m.