

ANSWER TO QUESTION RECEIVED ON BOND COUNSEL RFP # CU 2206

(February 23, 2022)

The following question was received by the University in response to its RFP # CU2206 for Bond Counsel Services.

Question:

“How will the Lottery Act be applicable to this bond issue?”

Answer:

We assume that the questioner is asking if proceeds from the Lottery are received by the University, will these funds be included under “Pledged Revenues” for the Series 2022 Bonds.

The University intends to offer the same security for the Series 2022 refunding revenue bonds as it did for its Series 2014 Revenue Bonds. Page 14 of the Series 2014 Official Statement describes the Pledged Revenues as follows:

“Pledged Revenues” are defined in the Indenture as “the Fees and Gross Operating Revenues received by or on behalf of the Issuer, calculated in accordance with GAAP, and any interest earnings thereon and on the funds and accounts held by the Bond Trustee.” “Fees” are defined in the Indenture as “Auxiliary Fees and Auxiliary Capital Fees; provided, that, unless specifically pledged pursuant to a Supplemental Indenture in connection with the issuance of Additional Bonds. “Fees” shall not include fees imposed on and collected from students for operating or financing intercollegiate athletic facilities, revenues received from athletic events or revenues received from the bookstore.” “Gross Operating Revenues” are defined in the Indenture as “all rents, fees, charges and other income received by or accrued to the University from the operation and use of the Auxiliary Facilities, including specifically charges for room and board, charges for food service, revenues derived from the operation of the University dining facilities, fees for providing space for meetings, conferences and conventions, revenues from the operation of vending machines, snack bars and catering services, fees, charges and penalties for parking and parking permits and any and all other revenues derived from the Auxiliary Facilities as calculated in accordance with GAAP, but excluding (i) the Fees and as otherwise required by statute and, (ii) unless specifically pledged pursuant to a Supplemental Indenture in connection with the issuance of Additional Bonds, revenues derived from intercollegiate athletic facilities, athletic events and the University bookstore.” (The definitions of these terms are contained in the Indenture included in **APPENDIX C** hereto.)

The University may need to use all or a substantial portion of Pledged Revenues to operate and maintain its auxiliary enterprises to generate the revenues derived therefrom. Therefore, Gross Operating Revenues may not create sufficient net income together with Fees to satisfy debt service on the Series 2014 Bonds. However, the Series 2014 Bonds also are payable from (but not secured by) other moneys legally available to be used for such purpose.

Concord does receive lottery proceeds each year under the Promise Scholarship Fund program. However, at best these lottery revenues may fall under “other legally available to be used for such purpose,” as noted in the yellow-highlighted section above. In keeping the actual pledge of revenues the same for the 2022 refunding bonds as it was for the 2014 Bonds, the new bonds would **not** be **secured** by funds from the lottery.