

The Board of Regents of the University of Nebraska met on September 16, 2005, at 1:34 p.m. in the Board Room at Varner Hall, 3835 Holdrege, Lincoln, Nebraska, in publicly convened session, the same being open to the public and having been preceded by advance publicized notice, a copy of which is attached to the minutes of this meeting as Attachment 1.

In compliance with the provisions of Neb. Rev. Stat. Section 84-1411, printed notice of this meeting was sent to each member of the Board and was posted in the first floor lobby of Varner Hall. In addition, copies of such notice were sent to the Lincoln Journal Star, Omaha World Herald, the Daily Nebraskan, the Gateway, the Antelope, the Kearney Hub, and the Lincoln office of the Associated Press on September 2, 2005.

Regents present:
Howard Hawks, Chairman
Randolph M. Ferlic
Chuck Hassebrook
C. David Hergert
Jim McClurg
Drew Miller, Vice Chair
Kent Schroeder
Charles S. Wilson
Omaid Zabih
Elizabeth Kraemer
Nicholas Behrendt
Brad Bohn

University officials present:
James B. Milliken, President
Jay Noren, Executive Vice President and Provost
Nancy Belck, Chancellor, UNO
Harold Maurer, Chancellor, UNMC
Douglas A. Kristensen, Chancellor, UNK
Harvey S. Perlman, Chancellor, UNL
John Owens, Vice President for Agriculture and Natural Resources
Donal J. Burns, Associate Executive Vice President and Provost and Corporation Secretary
David Lechner, Vice President for Business and Finance
Richard R. Wood, Vice President and General Counsel
Peter G. Kotsiopoulos, Vice President for University Affairs

I. **CALL TO ORDER**

II. **ROLL CALL**

The Board convened at 1:34 p.m. in the Board Room at Varner Hall, 3835 Holdrege, Lincoln, Nebraska, September 16, 2005. Attendance is indicated above.

III. **APPROVAL OF MINUTES AND RATIFICATION OF ACTIONS**

Motion Moved by Ferlic and seconded by McClurg to approve the minutes and ratify the actions of the regularly scheduled meeting of July 28, 2005.

Action Student Opinion: Aye: Bohn, Kraemer, Zabih, and Behrendt. Voting Aye: Ferlic, Hassebrook, Hawks, McClurg, Miller, Schroeder, Wilson and Hergert. Voting Nay: None. Motion carried.

September 16, 2005

IV.

KUDOS

Regent Zabih presented a KUDOS award to Laura Damuth, Undergraduate Research Coordinator and Fellowship Advisor in the Office of the Dean of Undergraduate Studies at the University of Nebraska - Lincoln.

Regent Hassebrook presented a KUDOS award to Kathleen Ann French, Education Coordinator at the University of Nebraska State Museum.

Regent Bohn presented a KUDOS award to Tim Danube, Associate Director of the Nebraska Student Union at the University of Nebraska at Kearney.

Regent Wilson presented a KUDOS award to Oleg Shats, Information Systems and Network Administrator at the University of Nebraska Medical Center.

Regent Schroeder presented a KUDOS award to John Rejda, Workstation Specialist II at the University of Nebraska Medical Center.

Regent Kraemer presented a KUDOS award to Ron Zank, Staff Secretary III for the Theater and the Writer's Workshop at the University of Nebraska at Omaha.

Regent Miller presented a KUDOS award to the AMCIS Group from the University of Nebraska at Omaha.

RESOLUTIONS

Regent McClurg presented the following resolution:

Whereas, members of the university faculty, staff, students, and administration recognize the need to expand opportunities to Nebraskans to benefit from a university education, and have successfully encouraged prospective students and their parents to consider the opportunities available on all four campuses of the University of Nebraska; and

Whereas, the university has taken important steps to increase enrollment and access to the university in a variety of ways, from recruiting more aggressively, both in-state and out-of-state, to working with students to retain them at the university through graduation, to maintaining affordability through moderate increases in tuition rates and providing increased financial aid; and

Whereas, enrollment for the 2005-06 academic year shows positive trends university-wide, including an impressive 6.1 percent increase in first-time freshmen, with an all-time high average ACT score for new freshmen on all three undergraduate campuses, an indication that the university's efforts to increase enrollment are having a positive impact on the size and academic strength of the incoming class;

Now, therefore, be it resolved, that the University of Nebraska Board of Regents commends the university-wide commitment to providing educational opportunities for Nebraskans through increasing university enrollment, the planning and execution of campus recruiting efforts, and the good work of the faculty, staff, students and administrators who have been involved in efforts to increase student recruitment and retention, and pledges its support for continued success in this important endeavor.

Regent Ferlic presented the following resolution

Whereas, people in the State of Nebraska, the United States and throughout the world have been affected and inspired to action by stories of the destruction caused by Hurricane Katrina in the Gulf Coast region; and

Whereas, the higher education community in that area was affected by the hurricane in numerous ways, including the destruction of property, loss of personal safety and security of students, staff and faculty, and the indefinite closing of some college and university campuses; and

September 16, 2005

VIII. **COMMITTEE REPORTS**

Academic Affairs

The Academic Affairs committee met on Friday morning and the topic of discussion was the University of Nebraska P-16 Initiative.

Business Affairs

The Business Affairs committee met on Friday morning and the topics of discussion were the LB605 deferred maintenance update and the University of Nebraska at Omaha land acquisition.

V. **STRATEGIC OR POLICY ISSUE**

The strategic issue was Water Resources, presented by Dr. Kyle Hoagland, Director of the Water Center at the University of Nebraska - Lincoln.

VI. **HEARINGS**

A hearing on the following item was opened by the Chairman:

Approve Amendment of Section 5.6 of the *Bylaws of the Board of Regents* relating to public information regarding students.

There was discussion.

Chairman Hawks closed the hearing.

A hearing on the following item was opened by the Chairman:

Approve amendment of Section 3.4.5 of the *Bylaws of the Board of Regents* relating to outside professional employment.

Chairman Hawks closed the hearing.

A hearing on the following item was opened by the Chairman:

Approve the proposed changes to the procedures of the Academic Rights and Responsibilities Committee at the University of Nebraska-Lincoln.

Chairman Hawks closed the hearing.

A hearing on the following item was opened by the Chairman:

Approve the proposed amendment of the Rules of Order of the University of Nebraska-Lincoln Academic Senate.

Chairman Hawks closed the hearing.

A hearing on the following item was opened by the Chairman:

Approve the proposed revisions from the Academic Senate outlining Faculty Government at the University of Nebraska-Lincoln.

Chairman Hawks closed the hearing.

IX. **UNIVERSITY CONSENT AGENDA**

Regent Miller asked that item IX-B-4 be removed from the Consent Agenda.
Regent Hergert asked that item IX-B-8 be removed from the Consent Agenda.

Motion Moved by Wilson and seconded Hergert to approve items IX-A-1, IX-A-2, IX-A-3,

September 16, 2005

IX-A-4, IX-A-5, IX-A-6, IX-A-7, IX-A-8, IX-A-9, IX-B-1, IX-B-2, IX-B-3, IX-B-5, IX-B-6, IX-B-7, AND IX-B-9.

A. ACADEMIC

- IX-A-1 President's Personnel Recommendations.
- IX-A-2 Approval is requested to establish The Center for Digital Research in the Humanities at the University of Nebraska-Lincoln.
- IX-A-3 Approval is requested for designation of the Center for ePortfolio-Based Assessment at the University of Nebraska at Omaha.
- IX-A-4 Approval to Award Degrees and Certificates for the 2005-2006 academic year and 2006 summer sessions at the University of Nebraska at Kearney.
- IX-A-5 Approval to Award Degrees and Certificates for the 2005-2006 academic year and 2006 summer sessions at the University of Nebraska-Lincoln.
- IX-A-6 Approval to Award Degrees and Certificates for the 2005-2006 academic year and 2006 summer sessions at the University of Nebraska Medical Center.
- IX-A-7 Approval to Award Degrees and Certificates for the 2005-2006 academic year and 2006 summer sessions at the University of Nebraska at Omaha.
- IX-A-8 Approve the requests for outside employment at the University of Nebraska Medical Center.
- IX-A-9 Approve the request for outside employment at the University of Nebraska-Lincoln.

B. BUSINESS

University of Nebraska at Kearney

- IX-B-1 Approve the naming of the athletic stadium at the University of Nebraska at Kearney the "Ron and Carol Cope Stadium."

University of Nebraska-Lincoln

- IX-B-2 Authorize the University of Nebraska-Lincoln Vice Chancellor for Business and Finance to approve Amendment #1 to the Service Agreement with the Nebraska Department of Natural Resources.
- IX-B-3 Authorize the University of Nebraska-Lincoln Vice Chancellor for Business and Finance to execute subcontracts and related amendments in conjunction with the Department of Health and Human Services National Institutes of Health Kaposi's Sarcoma and Human Herpes Virus in Africa award.
- IX-B-5 Authorize the University of Nebraska-Lincoln Vice Chancellor for Business and Finance to execute subcontracts and related amendments in conjunction with the NIH Lung and Blood Institute award for development of a therapy for the global hemophilia patient population.
- IX-B-6 Authorize the University of Nebraska-Lincoln Vice Chancellor for Business and Finance to execute subcontracts and related amendments in conjunction with the National Science Foundation Math in the Middle Institute Partnership award.
- IX-B-7 Authorize the University of Nebraska-Lincoln Vice Chancellor for Business and Finance to execute a sub-award in conjunction with the U. S. Army Medical Research Acquisition Activity agreement for "Production and Purification of Fibrinogen Components for the Production of a Fibrin Sealant Hemostatic Dressing."
University of Nebraska at Omaha
- IX-B-9 Approve the designation of the Marilyn J. Schoneck College of Education Scholarship Fund as a quasi-endowment.

September 16, 2005

There was discussion.

Action Student Opinion: Aye: Zabih, Behrendt, Bohn and Kraemer. Voting Aye: Wilson, Hergert, Ferlic, Hassebrook, Hawks, McClurg, Miller and Schroeder. Voting Nay: None. Motion carries.

Motion Moved by Ferlic and seconded by Miller to approve item IX-B-4.

IX-B-4 Authorize the University of Nebraska-Lincoln Vice Chancellor for Business and Finance to execute subcontracts and related amendments in conjunction with the National Association of State Universities and Land-Grant Colleges (NASULGC) award for the National E-Extension Project for the development of an Internet-based land-grant university education and information system.

There was discussion.

Action Student Opinion: Aye: Behrendt, Bohn, Kraemer and Zabih. Voting Aye: Ferlic, Hassebrook, Hawks, McClurg, Miller, Schroeder, Wilson and Hergert. Voting Nay: None. Motion carries.

Motion Moved by Hergert and seconded by Schroeder to approve item IX-B-8.

IX-B-8 Authorize the disposal of two tracts of real property at the West Central Research and Extension Center.

There was discussion.

Action Student Opinion: Aye: Bohn, Kraemer, Zabih and Behrendt. Voting Aye: Hergert, Ferlic, Hassebrook, Hawks, McClurg, Miller, Schroeder and Wilson. Voting Nay: None. Motion carries.

X. UNIVERSITY ADMINISTRATIVE AGENDA

A. ACADEMIC

Motion Moved by Wilson and seconded Miller to approve item X-A-1.

X-A-1 Approval is requested for the Master of Arts in Language Teaching (MALT) at the University of Nebraska at Omaha.

There was discussion.

Action Student Opinion: Aye: Kraemer, Zabih, Behrendt and Bohn. Voting Aye: Wilson, Hergert, Ferlic, Hassebrook, Hawks, McClurg, Miller and Schroeder. Voting Nay: None. Motion carries.

Motion Moved by Wilson and seconded by McClurg to approve items X-A-2, X-A-3 and X-A-4.

X-A-2 Approval is requested to create a major in Hospitality, Restaurant and Tourism Management at the University of Nebraska-Lincoln.

X-A-3 Approval is requested to create a new Bachelor of Science degree of Landscape Architecture at the University of Nebraska-Lincoln.

X-A-4 Approval is requested to create a new Bachelor of Science degree of Construction Engineering in the College of Engineering and Technology at the University of Nebraska-Lincoln.

There was discussion.

Action Student Opinion: Aye: Zabih, Behrendt, Bohn and Kraemer. Voting Aye: Wilson, Hergert, Ferlic, Hassebrook, Hawks, McClurg, Miller and Schroeder. Voting Nay: None. Motion carries.

Motion Moved by Wilson and seconded by Ferlic to approve items X-A-5, X-A-6 and X-A-7.

X-A-5 Approve the proposed changes to the procedures of the Academic Rights and Responsibilities Committee at the University of Nebraska-Lincoln.

September 16, 2005

- X-A-6 Approve the proposed amendment of the Rules of Order of the University of Nebraska-Lincoln Academic Senate.
- X-A-7 Approve the proposed revisions from the Academic Senate outlining Faculty Government at the University of Nebraska-Lincoln.
- There was discussion
- Action Student Opinion: Aye: Behrendt, Bohn, Kraemer and Zabih. Voting Aye: Wilson, Hergert, Ferlic, Hassebrook, Hawks, McClurg, Miller and Schroeder. Voting Nay: None. Motion carries.

B. BUSINESS

Central Administration

- Motion Moved by Wilson and seconded McClurg to approve items X-B-1 and X-B-2

- X-B-1 Approve Amendment of Section 5.6 of the *Bylaws of the Board of Regents* relating to public information regarding students:

5.6 Public Information Regarding Students. Public information regarding students attending the University shall be the (I) student's name, ~~current~~ (ii) local address, (iii) permanent address, (iv) telephone listings, (v) year at the University, (vi) dates of attendance, and (vii) academic college and major field of study, (viii) enrollment status (e.g., undergraduate or graduate; full-time or part-time), (ix) participation in officially recognized activities and sports, (x) degrees, honors and awards received, and (xi) most recent educational agency or institution attended. The names of students mentioned in some kinds of campus security or campus police reports concerning accidents and incidents may also be released to the public. Each major administrative unit shall define the kinds of reports and information that may be released to the public. Information contained in personal files of the student is considered confidential and requires written authorization by the student for release; provided such records with names and personal identification deleted, and kept confidential, may be made available for governmental or University approved research and analysis.

- X-B-2 Approve amendment of Section 3.4.5 of the *Bylaws of the Board of Regents* relating to outside professional employment.

3.4.5 Outside Employment.

Staff members employed on a part-time basis by the University, such as practicing lawyers or physicians, may engage in outside employment or activities unless it is expressly stipulated to the contrary in the conditions of employment.

Staff members employed by the University, other than those covered in the preceding paragraph, shall be encouraged to engage in professional activities outside the University as a means of contributing to the economic growth and development of the state as well as broadening their experience and keeping them abreast of the latest developments in their specialized fields; provided such activities do not interfere with their regular duties at the University, or represent a conflict of interest. Staff members may accept temporary or occasional employment for such professional services when such employment is recommended by the Dean of the college or director of the division involved and approved by the Chancellor or President, or their designees.

Specific approval of the Board is required before any members of the full-time professional staff:

(a) ~~Accept retainer fees or other remuneration on a permanent or yearly basis as~~ May be retained ~~provide professional consultants services outside the University to an individual person, client, company, firm or governmental agency over a time period lasting more than two years.~~

(b) May accept professional employment requiring more than an average of two days per month during the period of ~~their~~ his or her full-time University employment.

(c) Charge fees for work performed in University buildings with University equipment and materials.

September 16, 2005

~~(d) Provide professional services for remuneration to departments or agencies of state government.~~

The President shall promulgate such executive policies as shall be necessary for administration and enforcement of this Section 3.4.5, including regulations covering the conduct of outside professional activity performed in University buildings using University equipment or materials that assure there is adequate consideration to the University for such use.

~~Nothing contained in this Section 3.4.5 shall, however, prevent the Board from continuing affect the administration or enforcement of the Medical Service Plan at the University of Nebraska Medical Center adopted March 5, 1972, and or the Dental Service Plan at the University of Nebraska Medical Center, adopted January 16, 1982, or from making or any amendments; changes, or alterations thereto or revisions thereof which have been approved by the Board.~~

There was discussion.

Action Student Opinion: Aye: Behrendt, Bohn, Kraemer and Zabih. Voting Aye: Wilson, Hergert, Ferlic, Hassebrook, Hawks, McClurg, Miller and Schroeder. Voting Nay: None. Motion carries.

Motion Moved by Ferlic and seconded McClurg to approve item X-B-3

X-B-3 Ratify (I) the written agreement with the University of Nebraska Foundation relating to acceptance of a major private gift from the Durham Foundation to the University of Nebraska Foundation for the benefit of the School of Architectural Engineering and Construction, and (ii) the naming of the of the Charles W. Durham School of Architectural Engineering and Construction.

There was discussion.

Action Student Opinion: Aye: Bohn, Kraemer, Zabih and Behrendt. Voting Aye: Ferlic, Hassebrook, Hawks, McClurg, Miller, Schroeder, Wilson and Hergert. Voting Nay: None. Motion carries.

Motion Moved by Miller and seconded Ferlic to approve item X-B-4

X-B-4 Delegate authority to the Chairman of the Board and the President on a one time basis to make a budget deficit request for fiscal year 2005-2006 to the State of Nebraska.

There was discussion.

Action Student Opinion: Aye: Kraemer, Zabih, Behrendt and Bohn. Voting Aye: Miller, Schroeder, Wilson, Hergert, Ferlic, Hassebrook, Hawks and McClurg. Voting Nay: None. Motion carries.

University of Nebraska at Kearney

Motion Moved by Schroeder and seconded McClurg to approve item X-B-5

X-B-5 Approve a five year lease agreement between UNK and Alltel Communications of Nebraska, Inc. for the lease of real property located at the southeast side of Foster Field on the UNK campus.

There was discussion.

Action Student Opinion: Aye: Zabih, Behrendt, Bohn and Kraemer. Voting Aye: Schroeder, Wilson, Hergert, Ferlic, Hassebrook, Hawks, McClurg and Miller. Voting Nay: None. Motion carries.

University of Nebraska-Lincoln

Motion Moved by Miller and seconded McClurg to approve item X-B-6

X-B-6 Approve an increase in the project budget, and approve the limited use of change orders for the UNL Behlen Renovation for Nanotechnology/Atomic, Molecular, and Optical Physics Project (the Behlen Renovation).

September 16, 2005

There was discussion.

Action Student Opinion: Behrendt, Bohn, Kraemer and Zabih. Voting Aye: Miller, Schroeder, Wilson, Hergert, Ferlic, Hassebrook, Hawks and McClurg. Voting Nay: None. Motion carries.

Motion Moved by McClurg and seconded Wilson to approve item X-B-7

X-B-7 Approve an agreement with Valentino's of America, Inc. for a sponsorship of the intercollegiate athletic programs of the University of Nebraska-Lincoln and approve an amendment to the present catering agreement with Valentino's.

There was discussion.

Action Student Opinion: Aye: Bohn, Kraemer, Zabih and Behrendt. Voting Aye: McClurg, Miller, Schroeder, Wilson, Hergert, Ferlic, Hassebrook and Hawks. Voting Nay: None. Motion carries.

Motion Moved by McClurg and seconded Wilson to approve item X-B-8

X-B-8 Approve the purchase and installation of video screens in Memorial Stadium.

There was discussion.

Action Student Opinion: Aye: Kraemer, Zabih, Behrendt and Bohn. Voting Aye: McClurg, Schroeder, Wilson, Hergert, Ferlic, Hassebrook and Hawks. Voting Nay: Miller. Motion carries.

University of Nebraska Medical Center

Motion Moved by McClurg and seconded Ferlic to approve item X-B-9 and X-B-10

X-B-9 Approve leasing of space at Gordman Building located at 5155 South 36th Street, Omaha, Nebraska.

X-B-10 Approve a Services Contract between the Wyoming Health Care Commission and the University of Nebraska by and for the University of Nebraska Medical Center's Health Professions Tracking Center.

There was discussion.

Action Student Opinion: Aye: Zabih, Behrendt, Bohn and Kraemer. Voting Aye: McClurg, Miller, Schroeder, Wilson, Hergert, Ferlic, Hassebrook and Hawks. Voting Nay: None. Motion carries.

Closed Session

Motion Moved by Hergert and seconded by Ferlic that the Board of Regents go into closed session as authorized by Section 84-1410 of the Revised Statutes of Nebraska for the protection of the public interest for the purpose of holding a discussion limited to strategy with respect to the purchase of real estate for public use by the University.

Action Student Opinion: Aye: Behrendt, Bohn, Kraemer and Zabih. Voting Aye: Hergert, Ferlic, Hassebrook, Hawks, McClurg, Miller, Schroeder and Wilson. Voting Nay: None. Motion carries.
The Board went into closed session at 4:11 p.m. and reconvened the open meeting at 5:06 p.m.

University of Nebraska at Omaha

Motion Moved by Schroeder and seconded Hergert to approve item X-B-11

X-B-11 Approve non-binding Memorandum of Understanding with Ak-Sar-Ben Future Trust providing for the negotiation of a definitive agreement for (I) the exchange of parcels of land located in the Ak-Sar-Ben Business and Education Campus, and (ii) the acquisition of the Chili Greens property and approximately 17 acres of real property in the vicinity of 64th and Center Streets in Omaha.

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (this "MOU") is entered into on September , 2005, by and between Ak-Sar-Ben Future Trust, a Nebraska non-profit corporation ("AFT") and the BOARD OF REGENTS OF THE University of Nebraska, a public body corporate of the State of Nebraska (the "University").

1. **Real Property.** AFT owns or intends to obtain ownership or control of the parcels of real property identified in Exhibit A attached to this MOU as follows: (a) the approximately 2-acre parcel identified as parcel A-3 (the "University Target") and (b) the approximately 54-acre parcel identified as parcel A-1 ("Chili Greens"). The University owns or intends to obtain ownership or control of the parcels of real property identified in Exhibit A attached to this MOU as follows: (a) the approximately 4-acre parcel identified as parcel A-4 (the "AFT Target") and (b) the approximately 17-acre parcel identified as parcel A-2 (the "Center Street 17").

2. **Transaction.** Subject to the terms and conditions set forth in this MOU:

- a. AFT shall convey fee title to the University Target and Chili Greens to the University or its designee;
 - b. the University shall convey fee title to the AFT Target to AFT or its designee;
 - c. the University shall acquire ownership or control of all of the real property comprising the Center Street 17 (the "Assemblage");
 - d. AFT and the University shall take all actions and execute and deliver all instruments necessary to dedicate to the City of Omaha (the "City"), at no cost to the City or the parties hereto, any land they may own or control sufficient to extend the 67th Street right-of-way from Pine Street to Center Street, including but not limited to parcel A-5 identified in Exhibit A;
 - e. the University shall take all actions and execute, deliver and record all instruments necessary to ensure that any real property located south of Pacific Street owned or controlled by the University or any of its affiliates shall be developed in a manner consistent with the basic urban design principles employed in connection with the development of the area depicted in Exhibit A (the "Project"). Such principles generally include:
 - i. Wide, pedestrian-friendly sidewalks with extensive landscaping and specialty lighting;
 - ii. Plazas and other small gathering spaces incorporated into the pedestrian system;
 - iii. Buildings that front on the sidewalks with little or no set-backs;
 - iv. Localize streets with on-street parking;
 - v. Off-street parking facilities, be they structures or surface lots, located behind and screened by the buildings; and
 - vi. Building architecture and design which present a consistent theme, rhythm and use of materials.
 - f. the University shall take all actions and execute, deliver and record all instruments necessary to ensure that the Center Street 17 and Chili Greens shall be used for University purposes, such as student housing, academic buildings, athletic facilities and off street parking facilities, or for purposes that are complementary to the teaching, research and service mission of the University, such as business incubator facilities and affiliated educational or research facilities. The University shall commence construction of improvements and building structures on the Center Street 17 on or before January 1, 2009, and on Chili Greens when funds are available and plans have been completed. In the event it is impractical or impossible to commence construction by this date, AFT agrees to work in good faith with the University to create a mutually acceptable extension; and
 - g. the University shall cause to be constructed all infrastructure within the areas highlighted in yellow in Exhibit A attached to this MOU; and
 - h. It is recognized by both parties that any undeveloped real property owned by the University south of Pacific Street and north of Center Street may be or is subject to other covenants and restrictions.
3. **Conditions to Closing the Transaction.** AFT shall convey fee title to the University Target and Chili Greens to the University or its designee, and the University shall convey fee title to the AFT Target to AFT or its designee subject to the following conditions:
- a. the University shall convey fee title to the AFT Target to AFT or its designee subject to any matters of record other than liens, leaseholds and other possessory rights (which the University shall release and terminate at its sole cost and expense) and AFT shall accept such conveyance;

September 16, 2005

- b. AFT shall convey fee title to the University Target and Chili Greens to the University or its designee subject to any matters of record other than liens, leaseholds and other possessory rights (which AFT shall release and terminate at its sole cost and expense) and the University shall accept such conveyance;
 - c. the University shall pay or cause to be paid to AFT the sum of \$1,750,000, as adjusted for closing expenses and prorations in accordance with local custom, as consideration for AFT's conveyance of Chili Greens to the University;
 - d. AFT shall evaluate the status of the Assemblage of the Center Street 17 to ensure, in AFT's reasonable opinion, that the Assemblage shall be completed and that the Center Street 17 shall be developed for use by the University or its affiliates;
 - e. the University shall have taken all actions and executed and delivered all instruments necessary to dedicate land sufficient to extend the 67th Street right-of-way as described above; and
 - f. the University shall take all actions and execute, deliver and record all instruments necessary to fulfill the terms of Sections 2(e) and 2(f) above.
4. **Closing Date; Due Diligence Costs.** The Agreement, as defined below, shall provide that the parties shall satisfy the conditions set forth above and close the transaction set forth above on or before October 31, 2005. Each party shall be solely responsible for any due diligence it desires to conduct with respect to the real property which is the subject of this MOU.
5. **Approvals/Consents.** The Agreement shall provide that the University shall use reasonable efforts to obtain any required approval or consent of First Data Resources or its affiliates to any of the proposed development activities of AFT, the University or their assignees in connection with the Agreement. The Agreement shall provide that AFT shall use reasonable efforts to obtain the release of any mortgage or other debt instrument encumbering any real property to be conveyed by AFT to the University as contemplated in this MOU. Any and all said debt instruments shall be removed prior to or coincident with the closing of the Chili Greens property.
6. **Non-Binding Nature of MOU.** AFT and the University intend and desire to enter into the transaction generally described in this MOU, subject to the terms and conditions set forth in this MOU. This MOU is merely a general statement of the parties' intent to proceed, does not create any binding obligations upon the parties and should not be considered an offer binding on the parties hereto. Any closing of the transaction described herein is conditioned upon the execution and delivery of a definitive purchase/swap agreement (the "Agreement") by and among the parties hereto. The parties agree to negotiate the terms of the Agreement in good faith and to use their best efforts to finalize, execute and deliver the same on or before October 15, 2005.
7. **Counterparts.** This MOU may be executed in one or more counterparts, each of which shall be deemed an original.

IN WITNESS WHEREOF, the parties hereto have executed this MOU as of the date first set forth above.

AK-SAR-BEN FUTURE TRUST, a Nebraska non-profit corporation

By:

Name:

Title:

Attest: BOARD OF REGENTS OF THE University of Nebraska, a public body corporate of the State of Nebraska

By: _____

James B. Milliken, President

By: _____

Donal J. Burns, Corporation Secretary.

There was discussion.

September 16, 2005

- Action Student Opinion: Aye: Behrendt, Bohn, Kraemer and Zabih. Voting Aye: Schroeder, Wilson, Hergert, Ferlic, Hassebrook, Hawks, McClurg and Miller. Voting Nay: None. Motion carries.
- Motion Moved by Hergert and seconded Hawks to approve item X-B-12.
- X-B-12 Approve resolution authorizing the University Administration to proceed with the purchase of real property in the vicinity of 64th and Center Streets in Omaha for the development of the south campus of the University of Nebraska at Omaha, including the initiation of eminent domain proceedings to purchase such property, if necessary.
- Action Moved by Wilson and seconded by Hassebrook to amend item X-B-12 as follows:
- area WHEREAS, the campus of the University of Nebraska at Omaha does not have adequate land for future growth and development of University uses for off street parking, student housing, and academic and recreational facilities; and
- WHEREAS, the University has a unique opportunity to acquire at a favorable price from Ak-Sar-Ben Future Trust approximately 54 acres of land identified as Parcel A-1 (Chili Greens) in the attached Exhibit "A" in accordance with terms of a Memorandum of Understanding between the University and Ak-Sar-Ben Future Trust, a copy of which memorandum is attached as Exhibit "B"; and
- WHEREAS, the terms of the Memorandum of Understanding with Ak-Sar-Ben Future Trust require the University to acquire approximately 17 acres of real property identified as Parcel A-2 in the attached Exhibit "A" as a condition to the conveyance of Parcel A-1 (Chili Greens) by Ak-Sar-Ben Future Trust to the University; and
- WHEREAS, the University of Nebraska Foundation has been and is in the process of trying to purchase tracts of real property within Parcel A-2 for the benefit of and use by the University, and to date has purchased several separate tracts within Parcel A-2; and
- to WHEREAS, the Board Regents believes it is prudent to authorize the University Administration proceed at this time with the process for the University to directly acquire those tracts of real property within Parcel A-2 which the University of Nebraska Foundation is unable to acquire;
- NOW, THEREFORE, BE IT RESOLVED by the Board of Regent of the University of Nebraska that the University Administration is authorized to proceed with those actions necessary, including proceedings pursuant to Neb. Rev. Stat. §§ 25-2501 through 25-2506 (uniform procedure for acquiring private property for public use), to purchase by negotiation those real property interests in Parcel A-2 which the University of Nebraska Foundation has been unable to purchase.
- BE IT FURTHER RESOLVED that in the event the University is unable to acquire any such real property interest in Parcel A-2 after good faith negotiations to purchase the same have been exhausted as required by law, the University Administration is ~~further authorized to~~ shall be required to obtain Board of Regents approval prior to initiating eminent domain proceedings to purchase such real property interest for public use by the University in accordance with the provisions of Neb Rev. Stat. § 85-133 (University power of eminent domain) and §§ 76-704 through 76-724 (general procedure for the exercise of the power of eminent domain).
- Action on amendment Student Opinion: Aye: Kraemer, Zabih, Behrendt and Bohn. Voting Aye: Wilson, Hergert, Ferlic, Hassebrook, Hawks, McClurg, Miller and Schroeder. Voting Nay: None. Motion carries.
- Action on original motion Student Opinion: Aye: Zabih, Behrendt, Bohn and Kraemer. Voting Aye: Schroeder, Wilson, Hergert, Ferlic, Hassebrook, Hawks, McClurg and Miller. Voting Nay: None. Motion carries.
- C.** **FOR INFORMATION ONLY**
None
- D.** **REPORTS**
- X-D-1 Personnel Reports for 2004-2005

September 16, 2005

- X-D-2 University of Nebraska-Lincoln Agriculture Research and Development Center Maintenance Facility Report.
- X-D-3 University of Nebraska-Lincoln International Quilt Study Center Schematic Design Report.
- X-D-4 Semi-annual report of licenses for the period ended June 30, 2005.
- X-D-5 Changes in Construction Projects by Budget Categories.
- X-D-6 Status of Capital Projects exceeding \$2 million as of June 30, 2005.
- X-D-7 Bids and Contracts for the period ended August 25, 2005.
- X-D-8 Gifts, Grants, Contracts and Bequests for the period April 1-June 30, 2005.

Chairman Hawks accepted the reports.

XI.

ADDITIONAL BUSINESS

None.

ADJOURNMENT

There being no further business, the meeting was adjourned at 5:17 p.m.

Respectfully submitted,

Donal J. Burns
Corporation Secretary

Howard Hawks
Chairman of the Board