

**University of Nebraska Board of Regents
Board of Regents Meeting Itinerary**

Tuesday, August 17, 2010

3:00 p.m.

Board of Regents meeting

Videoconference is available at these locations--

Varner Hall Board Room
3835 Holdrege Street
Lincoln, NE 68583-0745

University of Nebraska at Omaha
6001 Dodge Street
Eppley Administration Building, Room 200
Omaha, NE 68182

AGENDA
THE BOARD OF REGENTS
OF THE UNIVERSITY OF NEBRASKA
Videoconference at these two locations
Varner Hall, 3835 Holdrege Streets, Lincoln, NE 68583 and
University of Nebraska at Omaha, 6001 Dodge Street
Eppley Administration Building Room 200, Omaha, NE 68182
Tuesday, August 17, 2010
3:00 p.m.

- I. CALL TO ORDER
- II. ROLL CALL
- III. APPROVAL OF MINUTES AND RATIFICATION OF ACTIONS TAKEN ON JUNE 11, 2010
- IV. PUBLIC COMMENT

The Standing Rules of the Board provide that any person who gives 24 hours notice to the Corporation Secretary of the Board may speak to any item that is not on the agenda. In addition, any person may appear and address the Board of Regents on any item on the agenda for this meeting. Each person will be given up to five minutes to make his or her remarks. Public comment will be limited to a period of 30 minutes.

- V. RESOLUTION

Resolution regarding University of Nebraska at Kearney athletic conference alignment

- VI. UNIVERSITY ADMINISTRATIVE AGENDA

- B. BUSINESS AFFAIRS

- University of Nebraska-Lincoln

- 1. Approve the attached Resolution relating to the Education Center Project at the Nebraska College of Technical Agriculture which (1) approves the issuance of not to exceed \$10,000,000 principal amount of Lease Rental Revenue Bonds, Series 2010 (NCTA Education Center Project) by The University Nebraska Facilities Corporation pursuant to a Trust Indenture, and (2) authorizes the execution and delivery of a Site Lease, if appropriate, Lease-Purchase Agreement, a Continuing Disclosure Agreement, a Tax Compliance Agreement, an Inducement Letter and a Preliminary Official Statement in connection with the sale of such Series 2010 Bonds, (3) authorizes the sale of such Series 2010 Bonds at a negotiated sale pursuant to a Bond Purchase Agreement and authorizes the Vice President for Business and Finance to determine interest rates (not to exceed a true interest cost of 4.25%), principal amounts, principal maturities and redemption provisions of such Series 2010 Bonds, and (4) approves the preparation and use of a final Official Statement Addendum VI-B-1
- 2. Approve an addition of \$583,000 to the budget for the Education Center Project at the Nebraska College of Technical Agriculture Addendum VI-B-2

- VII. ADDITIONAL BUSINESS

RESOLUTION

**University of Nebraska at Kearney
Application to Mid-America Intercollegiate Athletics Association**

August 17, 2010

WHEREAS, the Chancellor of the University of Nebraska at Kearney (UNK) recommends that UNK submit an application for membership in the Mid-America Intercollegiate Athletics Association (MIAA); and

WHEREAS, this recommendation is forwarded to the Board of Regents with the endorsement and support of the President of the University of Nebraska; and

WHEREAS, having considered the best interests of the University, and particularly advantages to UNK student athletes and programs in UNK athletics, the Board of Regents has determined that the tangible and intangible benefits of UNK's membership with the MIAA are very favorable and compelling;

NOW, THEREFORE, BE IT RESOLVED that the Board of Regents of the University of Nebraska endorses, authorizes and supports UNK's application for membership in the MIAA and, subject to the MIAA's acceptance and approval of UNK's membership application, the Board of Regents hereby fully authorizes the integration and membership of UNK into the MIAA effective and upon such terms and conditions as may be negotiated and approved by the UNK Chancellor.

VI. UNIVERSITY ADMINISTRATIVE AGENDA

B. BUSINESS AFFAIRS

University of Nebraska-Lincoln

1. Approve the attached Resolution relating to the Education Center Project at the Nebraska College of Technical Agriculture which (1) approves the issuance of not to exceed \$10,000,000 principal amount of Lease Rental Revenue Bonds, Series 2010 (NCTA Education Center Project) by The University Nebraska Facilities Corporation pursuant to a Trust Indenture, and (2) authorizes the execution and delivery of a Site Lease, if appropriate, Lease-Purchase Agreement, a Continuing Disclosure Agreement, a Tax Compliance Agreement, an Inducement Letter and a Preliminary Official Statement in connection with the sale of such Series 2010 Bonds, (3) authorizes the sale of such Series 2010 Bonds at a negotiated sale pursuant to a Bond Purchase Agreement and authorizes the Vice President for Business and Finance to determine interest rates (not to exceed a true interest cost of 4.25%), principal amounts, principal maturities and redemption provisions of such Series 2010 Bonds, and (4) approves the preparation and use of a final Official Statement Addendum VI-B-1

2. Approve an addition of \$583,000 to the budget for the Education Center Project at the Nebraska College of Technical Agriculture (NCTA) Addendum VI-B-2

TO: The Board of Regents
Business Affairs

MEETING DATE: August 17, 2010

SUBJECT: Financing for the Education Center Project at the University of Nebraska College of Technical Agriculture.

RECOMMENDED ACTION: Approve the attached Resolution relating to the Education Center Project at the Nebraska College of Technical Agriculture which (1) approves the issuance of not to exceed \$10,000,000 principal amount of Lease Rental Revenue Bonds, Series 2010 (NCTA Education Center Project) by The University Nebraska Facilities Corporation pursuant to a Trust Indenture, and (2) authorizes the execution and delivery of a Site Lease, if appropriate, Lease-Purchase Agreement, a Continuing Disclosure Agreement, a Tax Compliance Agreement, an Inducement Letter and a Preliminary Official Statement in connection with the sale of such Series 2010 Bonds, (3) authorizes the sale of such Series 2010 Bonds at a negotiated sale pursuant to a Bond Purchase Agreement and authorizes the Vice President for Business and Finance to determine interest rates (not to exceed a true interest cost of 4.25%), principal amounts, principal maturities and redemption provisions of such Series 2010 Bonds, and (4) approves the preparation and use of a final Official Statement.

One of the conditions precedent to gaining State appropriations allowing repayment of the bonds funding the Education Center construction, and thereby, precedent to signing of construction contracts related to the project, was obtaining funding for the construction of student housing at the Curtis campus. The legal agreement relating to the commitment of funding for the housing is not finalized as of this date. Therefore, this action, if approved, authorizes the President, in consultation with the Chair of the Board, to give a notice to proceed and sign the construction contracts, once he has been assured that the housing commitment is in place and backed by a legally binding, irrevocable commitment.

PREVIOUS ACTION: March 5, 2010 – The Board of Regents accepted a Report on Intermediate Design for the Education Center Project

September 4, 2009 - The Board of Regents approved the selection of The Clark Enersen Partners to provide design services for the Education Center.

March 7, 2008 – The Board of Regents approved the Program Statement and Budget for the Education Center Project.

EXPLANATION: The project will construct a new 27,000-square-foot Education Center to replace the current horticulture classroom facility, construct an addition on to the existing Vet Tech Center, and will renovate the old dairy barn which will become a simulated veterinary clinic. The Project will create a home for the Horticulture Systems Division, provide additional space for the Veterinary Technology Systems and provide a student commons space for students to gather for social activities and special events. The

Vet Tech Center will have the added advantage of allowing the separation of classroom space and animal facilities, avoiding the attendant problems. Taken together, this Project creates much needed changes providing additional space and functionality vital to continue to attract students to the NCTA campus in Curtis.

The intermediate design was approved by the Business Affairs committee in March, 2010 and presented to the Coordinating Commission for Post- Secondary Education on March 11, 2010.

The Project is being constructed through the use of bond proceeds (repayment through state appropriations), private donations and reserve funds.

The University of Nebraska Facility Corporation Bonds funding the project will be issued with a final maturity of up to 15 years. Current bond market conditions would provide an average interest rate of approximately 4.00% on the Bonds. The annual debt service (principal and interest) for the Series 2010 Bonds will match the anticipated receipt of the appropriations for this purpose.

Members of the public and the news media may obtain a copy of the proposed documents in the office of the University Corporation Secretary, 3835 Holdrege Street, Lincoln, Nebraska 68583, between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, except University holidays.

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|---------------|---|---------------------|
| PROJECT COST: | Proposed size of Issue | \$10,000,000 |
| | Less: Deposit to Debt Service Reserve | (1,000,000) |
| | Cushion for Interest Rate Changes and OID/OIP | (100,000) |
| | Costs of Issuance, Rounding | <u>(138,000)</u> |
| | Bond proceeds, net | 8,762,000 |
| | Donations | 1,000,000 |
| | NCTA reserves | 504,000 |
| | LB 309 funds | <u>79,000</u> |
| | Total Project Cost | <u>\$10,345,000</u> |

SOURCE OF FUNDS: State Capital Appropriation, Private Donations, NCTA Reserves

SPONSORS: Weldon Sleight, Dean
Nebraska College of Technical Agriculture

Alan R. Moeller, Assistant Vice Chancellor
Institute of Agriculture and Natural Resources

Ronnie D. Green
Vice President for Agricultural and Natural Resources
IANR Harlan Vice Chancellor

RECOMMENDED: James B. Milliken, President
University of Nebraska

DATE: August 17, 2010

RESOLUTION

I.

BE IT RESOLVED BY THE BOARD OF REGENTS OF THE UNIVERSITY OF NEBRASKA (the “**Board**”) that [(a) the Site Lease (the “**Site Lease**”) between the Board, as lessor, and The University of Nebraska Facilities Corporation (the “**Corporation**”), as lessee, dated the date determined jointly by the Vice President for Business and Finance and the Secretary/Treasurer of the Corporation, in the form attached hereto as **Exhibit A** and made a part hereof by reference, and (b)] the Lease-Purchase Agreement (the “**Lease Agreement**”) between the Board, as lessee, and the Corporation, as lessor, dated the date determined jointly by the Vice President for Business and Finance and the Secretary/Treasurer of the Corporation, in the form attached hereto as **Exhibit B** and made a part hereof by reference, both with respect to constructing, acquiring, equipping and furnishing the Education Center on the campus of the Nebraska College of Technical Agriculture (NCTA) in Curtis, Nebraska (the “**NCTA Education Center Project**”), for the use of the Board, which [Site Lease and] Lease Agreement [are/is] hereby approved, adopted, ratified and affirmed, together with such changes, additions, deletions or modifications as the Chair of the Board, University counsel and bond counsel shall approve as being in the best interests of the Board and the University of Nebraska.

II.

BE IT FURTHER RESOLVED BY THE BOARD that the issuance, sale and delivery by the Corporation of its Lease Rental Revenue Bonds, Series 2010 (NCTA Education Center Project) in an aggregate principal amount not to exceed \$10,000,000 dated the date determined jointly by the Vice President for Business and Finance and the Secretary/Treasurer of the Corporation (the “**Bonds**”), pursuant to the Trust Indenture between the Corporation and a financial institution having trust powers selected jointly by the Vice President for Business and Finance and the Secretary/Treasurer of the Corporation (the “**Trustee**”) dated the date determined jointly by the Vice President for Business and Finance and the Secretary/Treasurer of the Corporation, a copy of which is attached hereto as **Exhibit C**, the terms of which and of the Bonds are hereby approved, adopted, ratified and affirmed, together with such changes, additions, deletions or modifications as the Chair of the Board, University counsel and bond counsel shall approve as being in the best interests of the Board and the University of Nebraska.

III.

BE IT FURTHER RESOLVED BY THE BOARD that the Vice President for Business and Finance is hereby authorized and directed to approve the sale of the Bonds at a negotiated sale at a true interest cost not to exceed four and one-quarter percent (4.25%) to Ameritas Investment Corp. (the “**Underwriter**”) pursuant to (a) a Bond Purchase Agreement between the Corporation and the Underwriter and (b) an Inducement Letter from the Board to the Corporation and the Underwriter, each dated the date determined jointly by the Vice President for Business and Finance and the Secretary/Treasurer of the Corporation, in the forms presented to the Board as **Exhibit D** and **Exhibit E**, respectively, and made a part hereof by this reference, which Bond Purchase Agreement and Inducement Letter are hereby adopted, ratified, affirmed and approved, together with such changes or modifications as the Chair of the Board, University counsel and bond counsel shall approve as being in the best interests of the Board and the University of Nebraska. The Vice President for Business and Finance, on behalf of the Board, is hereby authorized and directed to approve the principal amount of Bonds to be issued (not to exceed \$10,000,000) and the principal maturities, interest rates and redemption provisions thereof and to take all necessary actions and execute all necessary documents to effect the sale of the Bonds.

IV.

BE IT FURTHER RESOLVED BY THE BOARD that the Preliminary Official Statement of the Corporation with respect to the Bonds, dated the date determined jointly by the Vice President for Business and Finance and the Secretary/Treasurer of the Corporation, in the form presented to the Board as **Exhibit F**, together with such changes, additions, deletions or modifications as the Chair of the Board, University counsel and bond counsel shall approve as being in the best interests of the Board and the University of Nebraska, and the final Official Statement to be dated as of the date of sale with respect to the Bonds, which final Official Statement shall include the terms of the Bonds, are hereby approved and authorized for delivery to the purchasers of the Bonds.

V.

BE IT FURTHER RESOLVED BY THE BOARD that (a) the Tax Compliance Agreement dated the date determined jointly by the Vice President for Business and Finance and the Secretary/Treasurer of the Corporation among the Board, the Corporation and the Trustee to satisfy the requirements of the Internal Revenue Code of 1986, as amended, and the applicable regulations thereunder with respect to the Bonds in the form attached hereto as **Exhibit G** and made a part hereof by reference, and (b) the Continuing Disclosure Agreement dated the date determined by the Vice President for Business and Finance between the Board and the Trustee to satisfy the requirements of Rule 15c2-12 of the Securities and Exchange Commission with respect to the Bonds in the form attached hereto as **Exhibit H** and made a part hereof by reference, are each hereby approved, adopted, ratified and affirmed, together with such changes, additions, deletions or modifications as the Chair of the Board, University counsel and bond counsel shall approve as being in the best interests of the Board and the University of Nebraska.

VI.

BE IT FURTHER RESOLVED BY THE BOARD that the members and officers of the Board and the officials of the University of Nebraska, or any of them, be, and they hereby are, and each of them hereby is, authorized and directed to take any and all action including the execution of all papers, certificates, receipts and documents, they or any of them may deem necessary or desirable to effectuate, in accordance with the terms of this Resolution, the delivery of and payment for the Bonds.

VII.

BE IT FURTHER RESOLVED BY THE BOARD that all actions heretofore taken for or on behalf of, or in the name of the Board, by any of the members or officers thereof or by any officers of the University of Nebraska with respect to the authorization or offering for sale of the Bonds are hereby validated, ratified and confirmed.

TO: The Board of Regents
 Business Affairs

MEETING DATE: August 17, 2010

SUBJECT: Increase project budget for the Education Center Project at the Nebraska College of Technical Agriculture

RECOMMENDED ACTION: Approve an addition of \$583,000 to the budget for the Education Center Project at the Nebraska College of Technical Agriculture (NCTA)

PREVIOUS ACTION: March 5, 2010 – The Board of Regents accepted a Report on Intermediate Design for the Education Center Project.

September 4, 2009 - The Board of Regents approved the selection of The Clark Enersen Partners to provide design services for the Education Center.

March 7, 2008 – The Board of Regents approved the Program Statement and Budget for the Education Center Project.

EXPLANATION: The Project will construct a new 27,000-square-foot Education Center to replace the current horticulture classroom facility, construct an addition to the existing Vet Tech Center, and will renovate the old dairy barn which will become a simulated veterinary clinic. The Project will create a home for the Horticulture Systems Division, provide additional space for the Veterinary Technology Systems and provide a student commons space for students to gather for social activities and special events. The Vet Tech Center will have the added advantage of allowing the separation of classroom space and animal facilities, avoiding the attendant problems. Taken together, this Project creates much needed changes providing additional space and functionality vital to continue to attract students to the NCTA campus in Curtis.

The intermediate design was approved by the Business Affairs committee in March, 2010 and presented to the Coordinating Commission for Post- Secondary Education on March 11, 2010.

The bids for the Project came in at approximately \$950,000 over the construction budget. A post bid addendum was issued to all bidders requesting cost reduction items to be submitted. Approval of this agenda item would accept \$367,000 in cost reductions and increase the budget by \$583,000. Additional funding would be \$504,000 from NCTA reserves and \$79,000 from the 309 Task Force For Building Renewal.

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|-------------------------------------|----------------|
| Proposed start of construction | September 2010 |
| Proposed completion of construction | July 2011 |

| | | |
|---------------|--------------------|---------------------|
| PROJECT COST: | Original Budget | \$9,762,000 |
| | Budget Increase | <u>583,000</u> |
| | Budget, as amended | <u>\$10,345,000</u> |

| | | |
|-------------------------|-------------------------------------|----------|
| ON-GOING FISCAL IMPACT: | Estimated Operating and Maintenance | \$47,500 |
| | 1% Assessment | 103,345 |

| | | |
|------------------|--------------------|---------------------|
| SOURCE OF FUNDS: | Bond Proceeds | \$8,762,000 |
| | Donations | <u>1,000,000</u> |
| | Original Budget | 9,762,000 |
| | NCTA reserves | 504,000 |
| | LB 309 funds | <u>79,000</u> |
| | Budget, as amended | <u>\$10,345,000</u> |

SPONSORS:

Weldon Sleight, Dean
Nebraska College of Technical Agriculture

Alan R. Moeller, Assistant Vice Chancellor
Institute of Agriculture and Natural Resources

Ronnie D. Green
Vice President for Agricultural and Natural Resources
IANR Harlan Vice Chancellor

RECOMMENDED: James B. Milliken, President
University of Nebraska

DATE: August 1, 2010