

BOARD OF REGENTS
BANKING COMMITTEE

April 17, 2002

The Banking Committee of the Board of Regents met on Wednesday, April 17, 2002, at the Iowa School for the Deaf, Council Bluffs, Iowa.

Those present were:

Banking Committee members: Regents David Fisher (chair), Amir Arbisser, Mary Ellen Becker, David Neil, and Owen Newlin.

Others in attendance were:

Institutional representatives: Mary Sue Coleman, Douglas True, Gregory Geoffroy, Warren Madden, Mark Chidister, Paul Tanaka, Arlo Meyer, John Feller, Robert Koob, Eunice Dell, and Jim Heuer;

Ken Haynie and Ed Bittle, Ahlers law firm;

Mark LeMay, Springsted; and

Board Office: Greg Nichols, Pamela Elliott, Charles Wright, Joan Racki, Deb Hendrickson, and Barb Briggie.

Regent Fisher called the meeting to order at 10:39 a.m.

APPROVE MINUTES OF THE MARCH 2002 BANKING COMMITTEE MEETING.

MOTION: Regent Neil moved to approve the minutes of the March 13, 2002, Banking Committee meeting, as written. Regent Newlin seconded the motion.
MOTION CARRIED UNANIMOUSLY.

RESOLUTIONS FOR SALE AND AWARD OF \$14,580,000 ACADEMIC BUILDING REVENUE REFUNDING BONDS, SERIES SUI 2002.

Mr. LeMay stated that two refunding issues were being sold this month to achieve savings. He noted that Standard and Poor's and Moody's had reaffirmed their ratings for both universities. With regard to the University of Iowa issue, he said three firms had indicated an interest in bidding; however, only two firms submitted bids. The winning bid had a true interest rate of 4.325673 percent which will achieve savings of approximately 9.5 percent.

The bid represents a \$1.38 million present value savings, which is approximately \$140,000 in savings per year.

Regent Fisher asked for the interest rate received for bonds that were sold one to two months ago. Mr. Shontz responded that the Maucker Union bonds for the University of Northern Iowa received a rate of 4.82 percent although those were longer duration bonds.

Vice President True asked for the name of the winning syndicate for this month's University of Iowa bond refinancing. Mr. LeMay responded that the leader was Bank of America. Additional information will be available that afternoon. The second bid was for a true interest rate of 4.365269 and was submitted by a syndicate led by Solomon Smith Barney.

Mr. Haynie stated that there was nothing unusual in the bid.

MOTION: Regent Becker moved to recommend that the Board adopt the following resolutions: (1) A Resolution providing for the sale and award of \$14,580,000 Academic Building Revenue Refunding Bonds, Series S.U.I. 2002, and approving and authorizing the agreement of such sale and award. (2) A Resolution authorizing and providing for the issuance and securing the payment of \$14,580,000 Academic Building Revenue Refunding Bonds, Series S.U.I. 2002, for the purpose of refunding the 2003 through 2015 maturities of the \$19,620,000 Academic Building Revenue Bonds, Series S.U.I. 1992, dated April 1, 1992, presently outstanding and heretofore issued by the Board to defray costs of building construction projects on the campus of The State University of Iowa. Regent Neil seconded the motion. **MOTION CARRIED UNANIMOUSLY.**

RESOLUTIONS FOR SALE AND AWARD OF \$4,890,000 ACADEMIC BUILDING REVENUE REFUNDING BONDS, SERIES UNI 2002.

Mr. LeMay stated that originally two bidders signed up to bid on the University of Northern Iowa issue but only one bid was received. The bid was for a true interest rate of 4.401633 percent which represented a present value savings of \$466,000, a 9.6 percent savings from the prior bonds. He noted that the bonds will be retired at the same time as the original bonds (2015).

Regent Fisher asked why there was not one rating for all Iowa state government bonds, rather than separate ratings for each institution and for the state of Iowa. He assumed the state of Iowa was the ultimate payer of the bonds. Mr. LeMay responded that the official statement indicates how each University will pay for the bonds from its gross revenues and income, which results in a slightly different rating from the rating agencies. The total sources of payments are slightly different. He said the rates achieved are tracked against Delphis and are very close to bonds rated Aaa.

Regent Fisher asked why there was only one bidder for this bond issue. Mr. LeMay responded that a number of firms will combine in one bid so that all firms can secure some of the bonds, which is how it worked this time.

Mr. Haynie stated that multiple bids tend to be received on the smaller issues. He then said there will be a departure from the exact terms of the notice of sale because the bidder selected the term bond option. The last three maturities will be rolled into the term bond option.

Regent Neil asked if \$466,000 was the net savings. Mr. Haynie responded that \$466,000 is the present value savings; \$680,000 is the total value.

MOTION:

Regent Neil moved to recommend that the Board adopt the following resolutions: (1) A Resolution providing for the sale and award of \$4,890,000 Academic Building Revenue Refunding Bonds, Series U.N.I. 2002, and approving and authorizing the agreement of such sale and award. (2) A Resolution authorizing and providing for the issuance and securing the payment of \$4,890,000 Academic Building Revenue Refunding Bonds, Series U.N.I. 2002, for the purpose of refunding the 2003 through 2015 maturities of the \$5,530,000 Academic Building Revenue Bonds, Series U.N.I. 1991, dated July 1, 1991, presently outstanding and heretofore issued by the Board to defray costs of building construction projects on the campus of the University of Northern Iowa. Regent Newlin seconded the motion. MOTION CARRIED UNANIMOUSLY.

Regent Fisher thanked Messrs. Haynie and LeMay for their assistance in achieving favorable interest rates.

PRELIMINARY RESOLUTION FOR SALE OF UP TO \$6,250,000 PARKING SYSTEM REVENUE BONDS, SERIES ISU 2002.

Vice President Madden stated that last month Iowa State University officials reported the direction in which the University is moving to create an enterprise in the parking system. Doing so is part of the University's long-term parking improvement plan.

Mr. Bittle stated when the Board approves the bond resolution next month, it will be establishing a parking enterprise at Iowa State University.

President Newlin asked for the location of the new central campus single-level parking deck. Vice President Madden responded that the most desirable location for the parking deck is that of the existing parking lot 5 which can be seen when one exits the Memorial Union parking ramp.

Regent Fisher stated that parking was one of his concerns when the Board approved building the new business building.

Vice President Madden said the traffic patterns will change when the new College of Business building opens.

Regent Neil asked if there is room for the parking deck at the proposed location. Vice President Madden responded affirmatively.

MOTION: Regent Arbisser moved to recommend that the Board adopt A Resolution authorizing the Executive Director to fix the date or dates for the sale of up to \$6,250,000 Parking System Revenue Bonds, Series I.S.U. 2002. Regent Becker seconded the motion. MOTION CARRIED UNANIMOUSLY.

SEMI-ANNUAL MASTER LEASE REPORT.

Associate Director Racki stated that no new master lease agreements had been entered into during the reporting period. She said the outstanding balance is \$6.2 million. Last fall the Board approved a new master lease agreement with Wells Fargo.

Regent Fisher stated, for the benefit of the newer members of the Banking Committee, that the master lease agreement is actually a line of credit.

President Newlin asked, since the terminology is always confusing, if the wording should be changed. Vice President Madden responded that it really is a lease financing because the assets are pledged.

Mr. Haynie said the master lease is a lease and includes an overall line of credit. The agreement includes non-appropriation language.

Vice President True stated that with master lease financing the institutions retain title to the leased item; therefore, it is not a lease in the normal sense, which makes the terminology confusing. The University agrees to relinquish title to the property if it cannot make the payments.

Mr. Haynie said the financing was similar to that of an installment purchase agreement.

Regent Becker noted that most of the items financed through the master lease were less than \$1 million except the University of Iowa laundry facility which was much larger. Vice President True stated that the cost of bond issuance is a barrier to bond financing for projects under \$5 million.

ACTION: Regent Fisher stated the Banking Committee received the semi-annual report on lease purchases under the master lease agreement, by general consent.

PURCHASE AND MASTER LEASE FINANCING – SCOREBOARD AND VIDEO DISPLAY SYSTEM, JACK TRICE STADIUM.

Regent Fisher stated that one of the bidders for the scoreboard and video display system had requested 10 minutes in which to address the Banking Committee. He said that would occur at the appropriate time. He then recognized Iowa State University Vice President Madden.

Vice President Madden presented Iowa State University's request for approval to purchase, utilizing master lease financing, a scoreboard and video display system for Jack Trice Stadium with a combined bid from Daktronics, Inc. and DB Acoustics, Inc. in the amount of \$1,032,058. He said the matter was preliminarily before the Banking Committee a month ago. At that time, one bidder had requested an appeal. Following a hearing held with the unsuccessful vendor, in conformance with University purchasing procedures, the University made the decision, consistent with its options as stated in the

RFP, to reject all proposals and issue a new RFP with revised specifications. University officials believe they now have a set of consistent bids. The low financial bid was submitted by Daktronics. He said the Banking Committee meeting materials outlined the outcome of the rebidding. The lease financing is in the amount of \$1 million. The master lease financing would be repaid through increased advertising revenues. University officials believe this is a sound economic decision for the athletics program. It will improve the scoreboard and video display in the stadium.

Regent Fisher asked if contracts with advertisers are structured for 10 years. Vice President Madden responded that some are for 10 years and some are not. He noted that all of the advertising for the board for next fall has been sold. There are no general fund tax dollars involved in this activity. Bond counsel reviewed the financing to ensure it meets the tax-exempt requirements.

Regent Neil asked what commitments were made to the sponsors who contracted for advertising on the scoreboard purchased in 1994. Vice President Madden responded that those sponsors have the opportunity to be advertisers, and a number of them will, with the new scoreboard system. Several of the firms who are currently advertising in the stadium will continue to do so. It is unlikely that anyone who wants to be an advertiser in the stadium will be precluded from doing so. He said the long-term advertising contract is with the beverage company Coca-Cola.

Regent Neil asked if funds are currently received from advertisers. Vice President Madden responded that the athletics department is collecting advertising revenue, and has been meeting the payments from this revenue for the current scoreboard.

Regent Neil asked if the old scoreboard was paid off. Vice President Madden responded that, assuming a new scoreboard is installed this summer, the University's Athletic Department plans to pay the remaining balance (approximately \$154,000) from a former master lease loan for the existing scoreboard this spring since it will no longer be using it.

Regent Neil asked if there are funds currently received for advertising that would have been applied to the old scoreboard as well as the new scoreboard. Vice President Madden responded affirmatively. He said there are new advertising contracts for this fall that will provide the revenue stream to meet the lease obligation of the new scoreboard.

Regent Neil asked if there has always been plenty of advertising revenue to pay for the scoreboards. Vice President Madden responded affirmatively. He said the advertising revenue has been increasing. There are a variety of factors for the increased advertising revenue including the University's success in athletics. University officials do not anticipate any financial difficulty in meeting the obligations under the lease.

President Newlin asked if the net advertising revenue will exceed the annual debt service payments. Vice President Madden responded affirmatively.

Regent Fisher stated that the Board Office was notified on April 15 that Trans-Lux Midwest, an unsuccessful bidder, was appealing the University's recommendation to award to Daktronics. He then recognized Executive Director Nichols.

Executive Director Nichols stated that what the Banking Committee was about to embark on was a variance from the usual procedure. The normal procedure would be for the unsuccessful vendor to exhaust its appeal at the institutional level prior to bringing it to the Board level. The Banking Committee was asked to vary its procedure in an attempt to balance the desire of the University for a decision in order to proceed this year with the project, and the rights of the vendor to have a venue of appeal. Since the bid award came out on Friday of the prior week, going through the normal channel of institutional appeals would delay this matter another month. Legal counsel at the Board Office and at the institution, as well as the Attorney General's Office agreed to release the necessary information to the vendor and to assure the vendor that it could appear at this meeting.

Regent Neil said it was his understanding that the Board Office recommendation was to contract with the low bidder. If the Board chooses to contract with the Iowa-based company, not the low bidder, does the low bidder have a right for rebuttal?

Executive Director Nichols said he was not sure that was a fair characterization of the Board Office recommendation. The Board Office recommendation was that the Board consider the University's request. The Board Office has not seen all of the information. Therefore, he said he did not have an answer to Regent Neil's question.

John Long, Vice President and General Manager of Trans-Lux Midwest (also known as Fairplay and Fairtron), stated that at approximately 4:00 p.m. the previous day, his company received information from Iowa State University with a cover fax indicating that by accepting the offer to speak to the Banking Committee, the company was waiving its right to appeal to Iowa State University if the Board of Regents ruled against it. He said the attorney for Trans-Lux Midwest advised that company officials not waive any legal rights by being permitted to speak at this meeting. He then asked if the Banking Committee members wished to proceed with that understanding.

Regent Fisher asked for clarification regarding Mr. Long's remarks. Director Tanaka stated that if the Board of Regents came to a final decision in this matter on this day, University officials felt there was nothing they could do internally to overrule what the Board

of Regents had decided. He suggested that the Banking Committee proceed to hear the presentation by Trans-Lux, recognizing that it had reserved its rights of appeal.

Mr. Long stated that the intent of Trans-Lux Midwest officials would be to try to honor the decision of the Regents.

Regent Becker said it appeared that the Banking Committee should not proceed with discussion unless the decision is to listen and not act on the matter, which will not help the University.

Executive Director Nichols stated that one other option would be for the Banking Committee to hear Trans-Lux's comments and then decide not to make a decision at this time.

Mr. Long shared with the Banking Committee members his prepared remarks. He first discussed the history of what had happened on the project including the first bid and the rebid. He said he believed the specifications had been unfair toward Trans-Lux Midwest and favored Daktronics from the beginning. Trans-Lux Midwest officials offered to provide University officials with an opportunity to see the product being proposed, which was in use in another state.

President Newlin asked for the site of the product which Trans-Lux Midwest officials wanted University officials to see. Mr. Long responded that Trans-Lux Midwest officials recommended that Iowa State University representatives view one of their large video projects in Toledo, Ohio, (the Mud Hens baseball team).

Mr. Long stated that Trans-Lux Midwest officials had struggled to determine why the Iowa State University Athletic Director favors Daktronics. He shared his reasons for making that statement. He said Trans-Lux Midwest officials had felt that the rebid process was going to provide a level playing field, and they proceeded to prepare their rebid. As they went through the details of the Request for Proposals, it became apparent to them that most of the specification changes were in favor of Daktronics. In the rebid document, the section on the Iowa preference law was modified to indicate that companies who use Iowa subcontractors would also be given preference. Trans-Lux Midwest officials do not believe that is proper or in the spirit of the law, nor that it is legal to modify that section of the law.

At 4:55 p.m. on Friday of the previous week, Trans-Lux Midwest officials were notified about the University's recommendation, and that the purchasing agent with whom they had been working would not be available for the first four days of this week.

Mr. Long recommended to the Banking Committee that the rebids be thrown out because the process was improper. Further, that University officials be directed to award to the low bidder on the original bid and to negotiate in good faith the changes desired by the University. He stated that he has been at Fairplay for five years. This is only the company's second appeal during that time period, and it submits bids each week. He said the company believes the process was unfair, and they feel very strongly about their product.

Regent Neil asked for clarification regarding Mr. Long's comment that the Iowa preference law was changed in some way. Mr. Long responded that, in the second RFP, a note was added that read that preference may also be considered for companies that use Iowa-based subcontractors.

Regent Neil asked if that is the Iowa law or the Regent policy manual. Mr. Long responded that it is the Iowa preference law.

Regent Neil noted that the original bid of Trans-Lux Midwest was \$96,000 lower than the next low bidder. He asked for the difference in the second round of bidding. Mr. Long said he believed it was about \$120,000 higher. He then stated that when information is disclosed before a contract is awarded, it gives bidders an advantage that they did not have previously.

The Banking Committee members next discussed the following bid information that was presented in the meeting materials:

REGENTS BANKING COMMITTEE
April 17, 2002

<u>Respondent</u>	<u>Components</u>	<u>Bid Amount</u>
Daktronics, Inc.; Brookings, SD	Video Display Board; Scoreboard Display; Advertising Panels; Optional Message Center; Performance Bond	\$ 904,722
	Sound System	148,149
	TOTAL	\$1,052,871
Trans Lux Midwest (formerly known as Fairtron); Des Moines, Iowa (parent company in New Haven, CT)	Video Display Board; Scoreboard Display; Advertising Panels; Optional Message Center; Allocation of Performance Bond	\$1,008,570
	Sound System, Allocation of Performance Bond	140,019
	TOTAL	\$1,148,589
Reynolds Sign Company, Irving, Texas; Mitsubishi Diamond, Lawrenceville, GA	Video Display Board; Scoreboard Display; Advertising Panels; Optional Message Center; Performance Bond	\$1,191,693
	Sound System	126,000
	TOTAL	\$1,317,693
DB Acoustics; Marion, IA	Sound System for Display, Performance Bond	\$ 127,336
	TOTAL	\$ 127,336

Regent Becker asked what would be the impact on ISU if the Banking Committee did not make a decision at this meeting. Vice President Madden responded that the goal is to have the new scoreboard operational for the fall football season. The University has commitments for advertising revenues on this equipment.

Vice President Madden said he wished to comment on some of Mr. Long's statements, particularly because he takes exception to some of the comments. He stated that Mr. Long had indicated that the University should have accepted the earlier bids. However, the irregularities were not minor. Trans-Lux Midwest's original bid did not include all of the components. After the bids were opened, Trans-Lux Midwest officials proposed to add several thousand dollars to their bid, which University officials believe is not appropriate, because they had omitted some items. He said the two scoreboards presented in the original bids were substantially different. University officials believe the bids received in the rebidding were for substantially identical scoreboards.

Vice President Madden stated that Mr. Long had made some statements about the Iowa State University Athletic Director, that he did not believe could be substantiated, implying there was a bias toward Daktronics. University officials believe that sound procurement processes had been followed.

Regent Fisher presented the following three options for Banking Committee members' consideration: 1) accept the University's recommendation to execute the contract with Daktronics as the vendor, 2) defer action on the request from Iowa State University, or 3) approve award of the bid to Trans-Lux Midwest based on the original bid. He said he believed the second bidding process provided a level playing field and that the University took the right action in rebidding the project. He was concerned about the first bidding process which was why the matter was deferred. It was his understanding that, within the Iowa statute, preference can be given to an Iowa company providing there are minor differences in the bids. In this case, there was a \$108,000 difference in the bids.

In light of the issues with which the Board and institutions are dealing, and the public perception of the state budget reductions, Regent Fisher said it would be difficult not to award the contract to the low bidder. Although he favors doing business with Iowa businesses, there is a \$108,000 difference, approximately 12 percent, in the two bids. He stated that Trans-Lux Midwest is a reputable company, and one with which he has been familiar since its inception.

Regent Neil asked for Daktronics' original bid amount. Vice President Madden responded that Daktronics bid \$857,000 without the sound system.

Regent Neil asked if the size of the scoreboard was specified in the original bid. Vice President Madden responded that a minimum size was specified.

Regent Neil said he agreed that \$108,000 was a lot of money but it was his preference to award the bid to an Iowa company. President Geoffroy responded that the \$108,000

difference in the bids was money the athletic department could use on other needs. The money also indirectly impacts the entire budget for the University since general funds are one of the sources for the athletic department budget.

Regent Neil asked if the advertising revenues that are received from the scoreboard also support the athletic department. Vice President Madden responded affirmatively.

MOTION: Regent Newlin moved to accept the University's recommendation. Regent Becker seconded the motion. MOTION CARRIED UNANIMOUSLY.

INTERNAL AUDIT REPORTS.

Director Elliott said there were no new internal audits to present this month. There were four follow-up audits from the University of Iowa and all four were closed.

Regent Arbisser asked if there will be a decline in auditing as a result of the budget reductions. Director Elliott responded that the Board Office has had discussions with some of the internal auditors who have made requests for a change in the audit plans. The issue will be discussed in detail when the internal audit plans are brought to the Banking Committee in July.

President Newlin asked if the reduction in State department budgets means the State Auditor would be performing less audits. Director Elliott said she did not believe that would be so.

Regent Becker questioned why an internal audit at the University of Northern Iowa, which began in March 2000 and was followed up in June 2001, was open so long. Director Elliott explained that if all of the issues have not been totally resolved when internal auditors perform follow-up audits, an audit is kept open for the Banking Committee. One example of an internal audit being held open for an extended period is if a new system has to be put in place.

Regent Fisher asked for a report back on the University of Northern Iowa internal audit of the grants and contracts accounting.

Regent Neil asked for the status of the audit of the new UIHC payment system. Vice President True responded that he discusses periodically the new system with Interim Director Rice. She has indicated there are no major problems. He said there are massive changes taking place. He will ask Interim Director Rice to provide an update or be

prepared to answer questions about this item when the Board receives the next quarterly report of the UIHC.

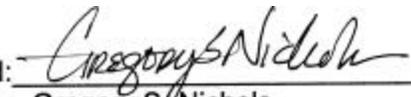
ACTION: Regent Fisher stated the Banking Committee received the report on the Status of the Internal Audit Follow-up reports, including four follow-up reports, by general consent.

ADJOURNMENT.

The meeting of the Regents Banking Committee adjourned at 11:45 a.m. on April 17, 2002.



Pamela M. Elliott
Director, Business and Finance

Approved: 

Gregory S. Nichols
Executive Director

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