

UNIVERSITY OF MINNESOTA

BOARD OF REGENTS

April 21, 2005

A special meeting of the Board of Regents of the University of Minnesota was held on Thursday, April 21, 2005, at 10:00 a.m. in the Boardroom, 600 McNamara Alumni Center.

Regents present: David Metzen, presiding; Clyde Allen, Frank Berman, Dallas Bohnsack, John Frobenius, Steven Hunter, David Larson, Richard McNamara, Lakeesha Ransom, and Patricia Simmons. Anthony Baraga participated via telephone.

Staff present: President Robert Bruininks; Senior Vice President and Provost Thomas Sullivan; Senior Vice President Frank Cerra; Vice Presidents Kathryn Brown, Kathleen O'Brien, Richard Pfitzenreuter, and Linda Thrane; General Counsel Mark Rotenberg; Executive Director Ann Cieslak; and Associate Vice Presidents Margaret Carlson, Steve Cawley, Gerald Fischer, Gail Klatt, and Michael Volna.

REPORT OF THE ALL-UNIVERSITY HONORS COMMITTEE

Regent Metzen stated that the Report of the All-University Honors Committee was forwarded to the Board in a letter from President Bruininks on April 13, 2005.

A motion was made and seconded, and the Board of Regents voted unanimously to approve the Report of the All-University Honors Committee. A copy of the report is on file in the Board Office.

RESOLUTION RELATED TO NAMING AGREEMENT FOR AN ON-CAMPUS FOOTBALL STADIUM, TWIN CITIES CAMPUS

Vice President Pfitzenreuter and General Counsel Rotenberg presented the following resolution related to the Naming Agreement (Agreement) for an on-campus football stadium on the Twin Cities campus:

WHEREAS, the Board of Regents has affirmed certain principles to guide any future development of a football stadium on the Twin Cities campus for the use of the Gopher football team and related athletic and academic purposes of the University; and

WHEREAS, the principles state that "the primary funding goal will be to build an on-campus University stadium from substantial private contributions and resources" and require that the University "identify new funding sources to support implementation of the campus stadium with the expectation that funds will not be diverted from other University purposes and resources"; and

WHEREAS, the University has identified the granting of naming rights to the stadium and certain of its component parts as a source of substantial new private funds that can be used for the development of the stadium; and

WHEREAS, the University and TCF Financial Corporation, based in Wayzata, Minnesota, and TCF National Bank, N.A., its Minnesota subsidiary, have entered into a Naming Agreement dated March 24, 2005 (the "Naming Agreement") pursuant to which, for a sponsorship fee of \$35 million to be paid over its 25-year term, the proposed stadium would be named "TCF Bank Stadium" on the terms and conditions set forth in the Naming Agreement, a complete copy of which is on file in the office of the Secretary of the Board of Regents; and

WHEREAS, in its Policy on the Reservation and Delegation of Authority, as amended December 10, 2004, the Board of Regents has reserved to itself all authority to carry out its legal and fiduciary responsibilities under the University's governing documents, and has specifically reserved to itself the authority to approve certain multi-year agreements with a value greater than \$1,000,000; and

WHEREAS, the Naming Agreement is by its terms subject to the approval of the Board of Regents of the University in accordance with the recommendation of the Honors Committee of the University; and

NOW, THEREFORE, BE IT RESOLVED, that the Naming Agreement be, and it hereby is, approved, ratified, and affirmed in all respects; that any and all actions heretofore taken or accomplished by members of the University administration and officers in connection with the Naming Agreement, including without limitation the execution and delivery of the Naming Agreement, be, and the same hereby are, authorized, approved, ratified, and affirmed in all respects; and that such persons are authorized and directed to take such other actions as may be required or as they may deem necessary or appropriate in order to effectuate fully this resolution; and

BE IT FURTHER RESOLVED, that this Resolution shall be effective if, but only if, the respective Boards of Directors of TCF Financial Corporation and TCF National Bank approve, ratify and affirm in all respects the Naming Agreement not later than April 21, 2005.

A motion was made and seconded to recommend approval of the resolution.

Rotenberg reviewed highlights of the Agreement between the University of Minnesota and TCF Financial Corporation and TCF National Bank. He reported that the Agreement was developed pursuant to the guiding principles established by the administration and affirmed by the Board of Regents. The Agreement provides for the payment of \$35 million to the University over a 25-year term and for naming the stadium "TCF Bank Stadium." The Agreement also includes provisions for signage and promotional activities as well as regulating the use of University TCF and stadium trademarks and logos. An Executive Summary prepared by the General Counsel and information relating to title sponsorship rights were included in the docket material. A copy of the full Agreement is on file in the Board Office.

Andrew Sorsoleil, Chair of the Student Representatives, addressed the Board on behalf of the Student Representatives. He spoke in favor of the partnership with TCF Financial Corporation and TCF National Bank and stated that students have a strong need for a stadium on campus. He indicated that students hope that the administration

would secure other donations in conjunction with state funding before asking students to contribute. A copy of Sorssoleil's comments are on file in the Board office.

In response to a question, Rotenberg noted that advertising provisions are included in the agreement with limitations on the amount of fixed and digital signage. He added that the type of signage that will be allowed has been carefully reviewed to comply with internal revenue service guidelines with respect to qualified sponsorship signage.

Rotenberg also reported that the Agreement provides that the terms are conditional upon approval by the Legislature during 2005. Associate Vice President Pfutzenreuter added that bills are currently before both the House and the Senate relating to the stadium. In answer to a question from Regent Larson, Rotenberg noted that the Agreement indicates that the Legislature needs to provide financing acceptable to the University and does not designate a specific amount.

Regent Frobenius asked if the Legislature fails to pass financing for a University stadium will other agreements with TCF National Bank relating to debit cards, ATM cards, leased space, and the University card, approved in conjunction with the stadium, remain valid. Rotenberg responded that the agreements would remain valid, but there are some separate provisions if financing is not procured. In addition, if the Agreement is terminated for any reason, it does not preclude the University from finding another naming partner.

The Board of Regents then voted unanimously to approve the resolution relating to the Naming Agreement for an on-campus football stadium on the Twin Cities campus.

Chair Metzen expressed appreciation to the individuals who worked so diligently on this project. He stated that the future of an on-campus football stadium at the University of Minnesota is now before the Legislature and the Governor.

CONSENT REPORT

Vice President Pfutzenreuter and General Counsel Rotenberg presented the Consent Report as detailed in the docket materials. It was noted that with the negotiation of the on-campus football stadium Naming Agreement, the University also negotiated four additional agreements listed in the Consent Report.

A motion was made and seconded to approve the following Consent Report for approval of:

- a Lease to TCF National Bank for retail banking office space over \$250,000. The banking office will be located in the West Bank Union Skyway and includes approximately 743 square feet. The lease expires in 2010 and TCF has two one-year options. In addition, TCF was granted an option to lease space in Coffman Union when the US Bank lease expires.
- the First Amendment to the ATM Lease Agreement with TCF National Bank dated October 31, 2003 granting multi-year options with potential rents payable to the University over \$250,000. The three option terms have durations of five years, five years, and six years respectively and potentially extend the term of the lease to December 31, 2029. TCF agrees to upgrade ATM machines as options are exercised.

- the First Amendment to the University Card Royalty Agreement with TCF National Bank dated October 31, 2003 over \$250,000. The Agreement is extended to December 31, 2023, and TCF has the option to extend the Agreement for an additional six years to December 31, 2029. The royalty rate will increase annually through 2023. The University is guaranteed a royalty of at least \$1 million per year over the term. In addition, TCF will continue to make annual contributions for scholarships and reimbursement of certain University expenses over the extended term.
- an Affinity Agreement with TCF National Bank the potential for royalties payable to the University over \$250,000. The Agreement allows TCF Bank to issue Affinity Cards (debit cards, ATM cards, and/or check cards) tied to depository accounts and bearing University marks. The Agreement expires December 31, 2029. TCF will pay a specified royalty for every card issued, a signing bonus of \$100,000 and potentially two performance bonuses of \$200,000 each if certain thresholds are met.

The Board of Regents voted unanimously to approve the Consent Report as presented in the docket materials.

INFORMATION ITEMS

Board members were referred to information items contained in the docket materials relating to background information concerning three agreements negotiated by the University and intended to facilitate the University's performance of its obligations under the Naming Agreement. It was reported that simultaneous with the negotiation of the on-campus football stadium Naming Agreement between the University and TCF Financial Corporation and TCF National Bank dated March 24, 2005, the University entered into agreements with 1) the University of Minnesota Foundation related to the maintenance and use of lists of Twin Cities campus alumni; 2) the University of Minnesota Alumni Association (UMAA) related to the respective rights of the UMAA and University to offer credit cards and debit cards under affinity agreements; and 3) Chase Manhattan Bank amending its agreement and clarifying its rights with respect to marketing in a new on-campus football stadium. An Executive Summary prepared by the General Counsel describing the three agreements was included in the docket materials.

RESOLUTION RELATED TO MEMORANDUM OF UNDERSTANDING WITH MINNESOTA MEDICAL FOUNDATION

AND

RESOLUTION RELATED TO MEMORANDUM OF UNDERSTANDING WITH UNIVERSITY OF MINNESOTA FOUNDATION

General Counsel Rotenberg reported that according to Board of Regents Policy: *Reservation and Delegation of Authority*, the Board of Regents has the exclusive authority to approve the legal structure and scope of any relationship between the University and any associated organization, non-profit corporation, foundation, institute, or similar entity that substantially relies upon University resources or personnel to carry out its mission. As part of the administration's ongoing review of the University's relationships with associated organizations, updated memorandums

of understanding have been developed between the University and the Minnesota Medical Foundation and the University Foundation. Rotenberg noted that the guiding principles, which the Board of Regents directed the administration to use, were followed in the development of both memorandums of understanding.

Rotenberg reviewed the key issues contained in the agreements: 1) University representation on the foundations' governing bodies; 2) coordination of cultivation, solicitation and other fundraising planning activities; 3) information sharing; 4) direction and oversight of the senior foundations' officers; 5) status of University employees assigned to the foundations; and 6) disbursement of unrestricted funds managed by the foundations.

Copies of both Memorandums of Understanding were presented and are on file in the Board Office.

Following the presentation, the following resolution related to the Memorandum of Understanding with the Minnesota Medical Foundation was moved and seconded:

WHEREAS, the Minnesota Medical Foundation ("MMF") is a "recognized foundation" under the Board of Regents Policy: *Foundations at the University*; and

WHEREAS, in November 2004, the Board of Regents directed the administration to use the *Framing Principles for the University's Relationships with Associated Organizations* to guide the development of policies and memorandums of understanding; the Third Principle requires the University to "enter into a written agreement governing its relationship with each designated Associated Organization"; and

WHEREAS, the administration of the University and the senior leadership of MMF have successfully negotiated the terms of a memorandum of understanding to govern the University's relationship with MMF; and

WHEREAS, the Board of Regents has reserved to itself the power and authority to approve agreements such as memoranda of understanding with the recognized foundations; and

WHEREAS, the memorandum of understanding with MMF provides that it is subject to approval by the Board of Regents;

NOW, THEREFORE, BE IT RESOLVED that the Memorandum of Understanding between the University and MMF presented to the Board of Regents for approval at its meeting on April 21, 2005 is hereby approved, and the Chair of the Board of Regents and the President are hereby authorized, empowered and directed to execute and deliver, in the name of and on behalf of the Regents of the University of Minnesota, the Memorandum of Understanding between the University and MMF, and any and all related necessary or desirable agreements and instruments.

Rotenberg then presented the following resolution related to the Memorandum of Understanding with the University of Minnesota Foundation that was moved and seconded:

WHEREAS, the University of Minnesota Foundation (“UMF”) is a “recognized foundation” under the Board of Regents Policy: *Foundations at the University*; and

WHEREAS, in November 2004, the Board of Regents directed the administration to use the *Framing Principles for the University’s Relationships with Associated Organizations* to guide the development of policies and memorandums of understanding; the Third Principle requires the University to “enter into a written agreement governing its relationship with each designated Associated Organization”; and

WHEREAS, the administration of the University and the senior leadership of UMF have successfully negotiated the terms of a memorandum of understanding to govern the University’s relationship with UMF; and

WHEREAS, the Board of Regents has reserved to itself the power and authority to approve agreements such as memoranda of understanding with the recognized foundations; and

WHEREAS, the memorandum of understanding with UMF provides that it is subject to approval by the Board of Regents;

NOW, THEREFORE, BE IT RESOLVED that the Memorandum of Understanding between the University and UMF presented to the Board of Regents for approval at its meeting on April 21, 2005 is hereby approved, and the Chair of the Board of Regents and the President are hereby authorized, empowered and directed to execute and deliver, in the name of and on behalf of the Regents of the University of Minnesota, the Memorandum of Understanding between the University and UMF, and any and all related necessary or desirable agreements and instruments.

A discussion ensued. Regent Berman expressed concerns relating to the lack of internal and external auditing rights of the University in both agreements. He believes the ability to audit if the University deems it necessary is fundamental to the Board’s oversight responsibilities. Without the inclusion of auditing rights, he stated he could not support the resolutions.

Several Board members agreed that questions remain about auditing issues. Regent Allen noted that a number of provisions have been included in the memorandums that provide assurance that proper auditing will be completed. Specifically he identified the addition of Board of Regents representation on the executive committees of both foundations and on the audit committee of the University Foundation. He cited a number of changes, including tighter University resources forcing a need for better planning and coordination, as reasons for new agreements with the foundations. He indicated his strong support for the memorandums, describing them as a big step forward. Regent Larson added that he would support the resolutions with the assurance of proper auditing and the knowledge of Board representation.

Regent Frobenius commented that because national auditing standards changed, the University and its affiliated organization now are required to consolidate financial reports. This change has led to a number of issues relating to separate audit firms. He emphasized the importance of internal control audits and expressed the hope that the disclosure language within these memorandums will ensure access to needed information. Because there has been significant progress in a number of key areas and

improvement on audit issues, he agreed to support the resolutions, if a periodic review of the agreements is scheduled within two years. Several Board members agreed that a review should be held within the next year or two. Regent Simmons added that the three Boards have a responsibility to the public to ensure that the spirit of these documents are followed.

The Board of Regents then voted by a majority of 10 to 1 to approve the resolution related to the Memorandum of Understanding with the Minnesota Medical Foundation. Regent Berman voted against the resolution.

The Board of Regents voted by a majority of 10 to 1 to approve the resolution related to the Memorandum of Understanding with the University of Minnesota Foundation. Regent Berman voted against the resolution.

The meeting adjourned at 11:20 a.m.

ANN D. CIESLAK
Executive Director and
Corporate Secretary