

SOUTH DAKOTA BOARD OF REGENTS

Full Board

AGENDA ITEM: DD

DATE: April 2-3, 2009

SUBJECT: Lease Agreement with the Northern State University Foundation for Presidential Housing

The Northern State University Foundation has recently proposed to acquire housing property located in a residential development outside of Aberdeen, SD, at a cost of \$340,000, to substitute for the housing that it currently provides to the NSU President. The house that the NSU Foundation currently leases to the Board is an historic residence. Although it is a beautiful structure, the building plan is not conducive to entertaining groups larger than 10-12 people, and it is not fully handicapped accessible.

The newer house, occupying some 3,800 square feet, was constructed in 2005. It is located at Moccasin Creek Country Club, has ample parking, is fully handicapped accessible, is very suitable for the large gatherings that are commonly hosted at presidential residences and provides a separate living area for the NSU presidential family.

The proposed lease agreement (provided as attachment I) contemplates annual lease payments based upon the actual costs that the Foundation incurs to acquire the real estate, plus a reasonable rate of interest, together with operating expenses incurred by the Foundation, including such taxes as may be assessed against the property.

Under the proposed agreement, The Board would make annual rental payments to the Foundation in advance commencing on the 1st day of January, 2010, and on or before the 1st day of January 1 every year thereafter. The initial rental payment will be \$39,181, based upon amortization of the NSU Foundation purchase price over a 15 year term at 5.5% interest. The rental rate also includes the cost of insurance and a deposit equal to 1% of the cost of the house into a capital expenditure sinking fund to be held by the Foundation and to be used to cover necessary capital repairs, replacement or improvements.

(continued)

RECOMMENDED ACTION OF THE EXECUTIVE DIRECTOR

Approve the proposed Lease Agreement between the Board of Regents and NSU Foundation, and authorize the President of the Board to execute the document on behalf of the Board of Regents.

NSU Lease Agreement

April 2-3, 2009

Page 2

Rental rates will be adjusted annually to reflect actual increases or decreases in the Foundation's chargeable operating costs. In 2025, when the Foundation has amortized its acquisition costs, the rental rate will be adjusted to cover the Foundation's on-going operating, maintenance and repair expenses. Where capital expenses exceed the funds available in the sinking fund, rental rates may be adjusted temporarily, with the consent of the Board, to cover such additional Foundation costs.

The Foundation has retained the right to substitute another property acceptable to the Board for the house that it has now acquired for purposes of this lease. In the event that such a substitution has been made, the capital expense sinking fund will be transferred to benefit the new lodging.

Agreement

This Agreement, made and entered into this 3rd day of April, 2009, by and between the **Northern State University Foundation, Inc.**, a South Dakota non-profit corporation, hereinafter referred to as "Foundation", and the **State of South Dakota**, by and through the South Dakota Board of Regents, hereinafter referred to as "Board", and

Whereas, Foundation has agreed to acquire certain real property described as Lot 2, Stokes' 1st Addition to Prairiewood Village, Aberdeen, Brown County, and also known as 12967 Prairiewood Drive;

Whereas, Foundation wishes to make said residence available to be used as the residence of the President of Northern State University, now therefore, this agreement

Witnesseth:

Foundation hereby leases and lets to Board the real property described above to be used as the residence for the President of Northern State University.

Term. The term of this agreement shall commence on April 15th, 2009 and continue until this agreement is modified.

Rent. Rental payments will be based upon the actual costs that the Foundation incurs to acquire the real estate, plus a reasonable rate of interest, together with operating expenses incurred by the Foundation and listed on Exhibit "A" attached hereto and incorporated herein by this reference, which expenses may include such taxes as may be assessed against the property. The Board shall make annual rental payments to the Foundation in advance commencing on the 1st day of January 2010 and on or before the 1st day of January 1 every year thereafter. The initial rental payment will be \$39,181. Rental rates will be adjusted annually to reflect actual increases or decreases in the Foundation's chargeable operating costs. The costs that the Foundation incurred to acquire the property may be amortized over a fifteen year period, at the end of which time the rental rate will be adjusted to reflect the return of the Foundation's capital investment. Rental payments will include a component equal to one percent (1%) of the cost of the facility, which sum the Foundation agrees to hold and to manage as a capital expenditure sinking fund. If it becomes necessary to undertake capital repairs, replacement or improvements, the Foundation will contract for such work to be paid from the capital repair sinking fund established hereunder, or, with the consent of the Board, to be paid for through a temporary adjustment to the rent sufficient - to cover the actual costs to finance and to construct such repairs, replacements or improvements. In the event that this agreement should be terminated, the Foundation shall disburse or transfer the capital expenditure sinking fund as directed by the Board. In the event that the Foundation exercises its right, described below, to sell, rent or dispose of the property described above, and to purchase of another property, the balance of the capital expenditure sinking fund will be held for the benefit of the new property.

Utilities. The President of Northern State University shall pay and be responsible for the cost of personal long distance telephone calls and cable television service and shall use proper diligence in minimizing utility bills. All other utilities shall be paid by Board.

Maintenance. The Board shall provide routine yard maintenance and snow removal. The roof, walls, electricity, plumbing, heating, air conditioning and the structural portion of the house shall be maintained in a good state of repair by the Foundation.

Insurance. Foundation shall be responsible for insuring the residence. The President of Northern State University shall be responsible for insuring his own personal property and effects.

Use of Property. The real property hereinbefore described shall be used by the President of Northern State University and his or her immediate family for their residence.

Effective Date. The effective date of this agreement shall be April 15th, 2009 regardless of the date of execution hereof, and shall be binding upon the parties hereto, their successors and assigns.

Property Substitution. Foundation shall have the right to sell, rent or dispose of the property described above, contingent upon the purchase of another similarly suitable property acceptable to the Board for use as the primary residence for the President of Northern State University.

Entire Agreement. This agreement constitutes the entire understanding between the parties with respect to the subject matter hereof.

Modifications. This agreement may be modified from time to time only on mutual agreement in writing of the parties.

In witness whereof, the parties hereto have set their hands the day and year first above written.

Northern State University Foundation

By: _____
Mike Evans, President

Board of Board of the State of South Dakota

By: _____
Harvey C. Jewett, President

Attest:

Secretary

EXHIBIT A: Permitted components of Rental Rate

Retirement of house purchase costs [\$340,000] 15 years @ 5.5% interest	\$ 33,881
Insurance	\$ 1,750
Maintenance and repair @ 1% of value	<u>\$ 3,550</u>
<u>Lease payment</u>	\$ 39,181