

BUSINESS POLICY LETTER

TO: All Members of the University Community 2004:07

DATE: October 22, 2004

ACQUISITION AND LEASE OF REAL ESTATE BY THE UNIVERSITY

I. Acquisition of Real Estate by the University. All acquisitions of real estate by the University, whether by purchase, gift or other form of acquisition, shall be subject to the approval of the Board.

II. Certain Agreements Regarding Real Estate. Notwithstanding Section I above, the President or Vice President for Administration and Finance is authorized to enter into the following types of agreements regarding real estate on behalf of the University:

A. An option to purchase real estate where (1) the option may be exercised only after the approval of the Board has been obtained; and (b) the consideration agreed to be paid by the University for the option does not exceed \$10,000;

B. An exclusive dealings agreement where (1) the University and the seller agree to exclusively deal with each other for a period of time regarding the purchase and sale of real estate; and (b) any monetary consideration to be paid by the University for the right of exclusive dealing does not exceed \$10,000;

C. A purchase and sale agreement for real estate where (1) there is a requirement for the performance of an environmental audit in accordance with Section V of this Policy; (2) the University's obligation to consummate the purchase of the real estate is specifically made contingent upon Board approval; and (3) any earnest money or other non-refundable deposit paid by the University does not exceed \$10,000.

III. Lease of Real Estate by the University. All leases of real estate by the University for a consideration in excess of \$75,000 shall be approved by the Board. The President or Vice President for Administration and Finance is authorized to enter into leases of real property for a consideration up to \$75,000 where there is a sufficient unencumbered balance in the using activities budget balance to defray the amount of such lease, except that as to matters concerning solely the FSU Grand Rapids campus, the President or Chancellor and Vice President for FSU Grand Rapids is authorized to enter into leases of real property for a consideration up to \$75,000 where there is a sufficient unencumbered balance in the using activities budget balance to defray the amount of such lease.

IV. Legal Review of Acquisitions and Leases of Real Estate by the University. All option agreements, exclusive dealing agreements, purchase and sale agreements, and leases involving real estate to be entered into by the University must be reviewed by the University General Counsel's office or the Board Counsel prior to execution.

V. Environmental Audit.

A. It is the policy of the University to fully comply with all federal and State laws pertaining to environmental contamination. It is also the policy of the University that before real estate is acquired, either by purchase, gift, bequest, or otherwise, an environmental audit be performed to minimize the potential liability to the University from costs of environmental clean-ups, asbestos abatement, underground storage tank remediation, and retro-filling of PCB transformers. The University will determine before acquiring or accepting any real property what environmental liabilities might be incurred with that purchase or acceptance.

B. Prior to the purchase of any real estate or the acceptance of any real estate by gift, bequest or otherwise, a Phase I Environmental Audit shall be performed by an outside consultant. The Phase I Audit shall, at a minimum, include the following items:

1. Document and Record Review - Information on the previous use of the property and the past or present environmental problems will be collected and reviewed. This information will be obtained from all the following sources, if available:

- a) Title records, to determine past property owners;
- b) Historical aerial photographs of the site;
- c) USGS topographic maps of the area;
- d) Federal Superfund Sites (CERCLIS) list;
- e) National Priority List of Federal Superfund Sites;
- f) Michigan Sites on Environmental Contamination list under Part 201 of the Michigan National Resources and Environmental Protection Act;
- g) Michigan Hydrocarbon Production Sites with Environmental Contamination;
- h) Michigan landfills and disposal sites listed with the State of Michigan;
- i) Records of past environmental incidents at the Michigan Department of Natural Resources, the Michigan Department of Environmental Quality, the Michigan Department of Public Health, the County Health Department, the City Health Department, and the Fire Department; and

j) Records of past permits for waste discharge or waste disposal at the Michigan Department of Natural Resources, the Michigan Department of Environmental Quality, the Michigan Department of Public Health, the County Health Department, and the City Public Service Department.

2. Site Inspection - A site inspection will be conducted to identify other sources of potential environmental contamination. The potential sources to be considered include:

- a) Presence of flooring, insulating and/or sealing materials which may contain asbestos;
- b) Presence of above-ground or underground storage tanks;
- c) Presence of PCB transformers and/or capacitors; and
- d) Past or present activities conducted and chemicals, toxic and/or carcinogenic materials used or which may have been on the property that may cause environmental concern.

3. Report - A formal report of the results of the Phase I Environmental Audit shall be prepared, which will include recommendations, including recommendations for additional investigation, if required. The Phase I Environmental Audit report shall be made available to the Vice President for Administration and Finance and the University General Counsel.

C. Upon review of the Phase I Environmental Audit report, a determination will be made whether a Phase II Environmental Audit is required. The decision as to whether a Phase II Environmental Audit should be conducted will be made by the Vice President for Administration and Finance after consultation with the Office of the University General Counsel and the Plant Engineer's Office - Physical Plant Department. A Phase II Environmental Audit may include sampling of air, soil, and/or water (including ground water) for contaminants. The following are examples of typical findings in a Phase I Environmental Audit that would indicate that a Phase II Environmental Audit should be performed:

- 1. Evidence that a building contains asbestos-containing material would require that samples be taken for analysis and that the scope and cost of the removal project be estimated.
- 2. Evidence of a PCB transformer would require an estimate for the retro-filling or replacement.

3. Evidence of past or present property use for chemical, toxic or carcinogenic material handling or storage may require soil samples, ground water sampling, or exploratory excavation.

Cross Reference

Board Policy, Subpart 4-3, *Acquisition and Lease of Real Estate by the University*

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and Finance