

D-9. REAL ESTATE EXCHANGE POLICY

This policy establishes the limited circumstances in which the Board of Trustees will consider the potential exchange or other similar disposition of real property owned by the University.

CIRCUMSTANCES FOR EXCHANGING REAL ESTATE

As a significant capital asset of the University, real property should only be exchanged under the following circumstances, in each case subject to the prior approval of the Board of Trustees:

- the University no longer utilizes the real property;
- the real property is not needed to carry out the mission of the University;
- the costs of maintaining the real property exceeds its production of income, its benefit to the University, or the short-term and long-term costs of leasing or purchasing substitute real property;
- the existing property can be better utilized for industrial and business expansions by the private sector, thereby creating jobs and benefits for the citizens for the State of Alabama that outweigh the benefit of the continued ownership of the real property by the University;
- applicable law, regulations, or rules require that the real property be used for different public purposes;
- the exchange was directed by the donor of the real property as a condition to the initial conveyance of the real property to the University, pursuant to which the University knowingly accepted conveyance of the real property; or
- the Board of Trustees, in its sole discretion, determines the exchange of such real property to be in the best interests of the University.

PROCEDURES FOR THE EXCHANGE OF UNIVERSITY-OWNED REAL ESTATE

The following procedures will apply to the proposed exchange of any interest in any real property owned by the University (each, an “Exchange”), in each case except to the extent otherwise required or prohibited pursuant to applicable law with respect to such Exchange:

1. Exchanges may be initiated by individual solicitation or by advertisement for proposals, in each case upon the recommendation of the University President, the Chief Financial Officer, and other appropriate University administrators, as applicable, and the submission of such recommendation to the Board of Trustees for review and approval. The recommendation to the Board of Trustees should include a written summary of all relevant facts known by the University administrators submitting the recommendation, in each case to the extent that such facts are likely to be material the evaluation of the proposed Exchange.

2. Upon receipt of any recommendation for a proposed Exchange, the proposal shall first be reviewed by the Property and Facilities Committee of the Board of Trustees and the Executive Committee of the Board of Trustees who may then submit the proposal to the full Board of Trustees for final review and approval.
3. Approval by the Board of Trustees is required prior to (a) making any Exchange, or (b) entering into any contract or other binding obligation to make any Exchange, or that would require any payment by, or impose any penalty upon, the University if it does make an Exchange.
4. Without limiting the foregoing, efforts should be made to obtain written offers for Exchange which should, to the extent possible, afford the University a period to complete the Exchange that is not less than sixty (60) days following approval of the Exchange by the Board of Trustees.
5. Unless otherwise specified by the Board of Trustees in any resolution approving the Exchange, the property Exchanged by the University shall be conveyed only by statutory warranty deed or quitclaim deed.
6. Unless otherwise approved by the Board of Trustees the University shall not pay for the costs of title insurance, surveys (except as required for other University purposes), or loan discounts in connection with any Exchange; *provided, however*, that the University may agree to pay or otherwise be responsible for (a) preparing the deed pursuant to which such property will be conveyed to the counterparty, and (ii) any curative title work required in order to deliver good and marketable title to the counterparty.
7. Subject to compliance with the other provisions of this policy and any applicable law, all reasonable efforts should be undertaken to maximize the value of consideration to be received by the University in connection with any proposed Exchange, in each case taking into account the relevant facts and circumstances.
8. One (1) MAI appraisal prepared by a duly licensed real estate appraiser (each, a "Qualified Appraisal") prepared within six (6) months of the date of the proposed Exchange must be obtained prior to any Exchange involving real property with an estimated fair market value in excess of \$1,000,000.
9. Two (2) Qualified Appraisals dated within six (6) months of the proposed Exchange must be obtained prior to any Exchange involving real property with an estimated fair market value in excess of \$2,000,000; *provided, however*, that in instances where the values determined by the two (2) Qualified Appraisals differ by more than twenty percent (20%), a third Qualified Appraisal shall be obtained.
10. Any appraisals (including, without limitation, any Qualified Appraisals) obtained by or on behalf of the University (a) shall be deemed confidential and shall be the property of the University, (b) shall be furnished to the Board of Trustees and relevant University staff that require access to such information in connection with the evaluation of the proposed Exchange, and (c) unless otherwise required by applicable law, should not be disclosed to any prospective purchaser or other person without the prior approval of the Board of Trustees.
11. The fair market value of any property for which a Qualified Appraisal is obtained will be deemed to be the average value of all of the Qualified Appraisals obtained with respect to such property.

12. Exchanges involving aggregate consideration that is less than eighty percent (80%) of the fair market value of the relevant real property to be transferred by the University will not be approved absent compelling circumstances supporting the consideration (e.g., a lack of marketability, defects or issues with the property, or the cost to the University of continuing to own the property) as determined in the Board of Trustees' discretion.
13. Upon approval of an Exchange by the Board of Trustees, the Chief Financial Officer will submit the file to the Office of General Counsel for preparation and review of the appropriate transfer documents which, unless otherwise specified in the Board of Trustees' approving resolution, shall include the following the warranty deed and any other documents or instruments required to be executed or delivered in connection with the Exchange.
14. Following preparation and/or review of the conveyance documents by the Office of General Counsel, the conveyance documents shall be submitted to the University President for final approval and execution.
15. Following final approval of the conveyance documents, the Office of General Counsel will cause the Exchange to be closed and will submit, or cause to be submitted, the original conveyance and closing documents for recording and processing by the relevant governmental authorities, and the Chief Financial Officer will give appropriate notice to the relevant taxing authorities for the jurisdictions in which such real property is located.
16. Following the completion of each Exchange, all relevant records shall be maintained in accordance with the requirements of Policy D-11 (entitled "Real Estate Records Policy").

ADOPTED: June 17, 2005
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