

MINUTES
OF THE BOARD OF REGENTS
WESTERN KENTUCKY UNIVERSITY

January 23, 2002

AGENDA ITEM 1 - Call to Order

Required statutory notice having been given, the first quarterly meeting of the Board of Regents of Western Kentucky University was held in the Music Room of the Berry Hill Mansion in Frankfort, Kentucky. The meeting was called to order by Chair Bale at approximately 8:30 a.m., EST.

AGENDA ITEM 2 - Invocation

The invocation was provided by Ms. Leslie Bedo, Student Regent.

AGENDA ITEM 3 - Roll Call

The following members were present:

Mr. Howard E. Bailey
Ms. Kristen T. Bale
Ms. Leslie R. Bedo
Mr. Robert Earl Fischer
Ms. Lois Gray
Ms. Peggy W. Loafman
Mr. Cornelius Martin
Professor Mary Ellen Miller
Mr. Ronald Sheffer
Mr. James B. Tennill, Jr.
Ms. Beverly H. Wathen

Others in attendance included President Gary A. Ransdell; Ms. Liz Esters, Staff Assistant to the President and Secretary to the Board; Dr. Barbara Burch, Provost and Vice President for Academic Affairs; Mr. Tom Hiles, Vice President for Institutional Advancement; Mr. Bob Edwards, Assistant Vice President for University Relations; Dr. Richard Kirchmeyer, Vice President for Information Technology; Ms. Ann Mead, Chief Financial Officer; Dr. Wood Selig, Athletics Director; Dr. Gene Tice, Vice President for Student Affairs and Campus Services; Mr. John Osborne, Associate Vice President for Campus Services; and Ms. Deborah Wilkins, General Counsel.

AGENDA ITEM 4 - Approval of minutes

Chair Bale presented the minutes of the October 26, 2001, meeting for approval without reading inasmuch as copies were mailed to members of the Board prior to the

The Governor spoke of his budget recommendation and urged everyone to work together and look at the welfare of the whole endeavor rather than having separate agenda. The realization is there is not enough money to run the State properly and to do the things that have been committed, and the current political climate in the State prevents the introduction of new ways to get more money for the budget.

AGENDA ITEM 6 - President's Report

2001 Strategic Plan Progress Report - Dr. Ransdell distributed copies of the third progress report – *Challenging the Spirit Progress Report on Strategic Plan Performance Indicators for 2000-2001 and new Performance Indicators of 2002-2006*.

The plan has been transitioned to accommodate goals that have been achieved and to extend new life and new challenge to things that have been achieved, and to identify new performance indicators that will be pursued that were not under discussion in 1998 when the Strategic Plan was created. The life of this plan extends through 2006. At the mid-way point of every five-year sequence, two additional years will be projected. The Plan will be an on-going process that, every three years, will have two years added.

Dr. Ransdell commented, "Strategic planning is as much an art as it is a science, and the manner in which you are focused on continuous improvement whether you are at the beginning, the middle, or the end of a given strategic plan is critical to the outcomes achieved in any strategic planning process. We want to make sure that our outcomes continue to be stretched—to expand—and continue to include everything we are capable of achieving, thus the transition in this particular Strategic Plan. This one is about two things—status report of goals and performance indicators originally identified in 1998 and then heading a whole new range of challenges to take us through 2006."

In addition, Dr. Ransdell distributed and discussed the following documents under the President's Report:

- ***2001-2002 Enrollment Growth and Retention Fund***
- ***Kentucky Postsecondary Headcount Enrollment Fall 1998 to Fall 2001***
- ***WKU - Coping with Enrollment Growth***

Copies of each of these documents are filed in the Board's official files.

Dr. Ransdell also introduced Mr. Robert W. Edwards, Assistant Vice President for

University Relations and welcomed him to Western Kentucky University.

AGENDA ITEM 7 - Committee Reports

7.1 Academic Affairs Committee, Ms. Peggy W. Loafman, Chair

7.1.1 Recommendation for approval of a new interdisciplinary minor in Film Studies

FACTS: The minor in Film Studies will give students an opportunity to study various aspects of film in an organized, in-depth manner. Because it is an interdisciplinary minor, it will allow students to examine film from a variety of perspectives.

Currently there are thirteen courses in four different departments at Western Kentucky University that emphasize film. The existing courses, all of which are electives, have been popular, but currently have no systematic coordination that could serve the needs and interests of students. The minor in Film Studies will synthesize these courses into a coordinated program of study appropriate for designation as a minor.

Students who complete the minor in Film Studies will gain: a strong foundation in media literacy (including the ability to critically analyze and evaluate a visual text); knowledge of important aspects of the film industry; an appreciation of the diverse uses of film across different times, cultures, and contexts; and better preparation for possible graduate study in a variety of related fields.

Film studies has become a respected and popular academic discipline. An interdisciplinary minor in Film Studies will allow Western to keep up with educational offerings across the country, to be on the cutting edge of film studies programs in Kentucky, and to respond to student demand for courses in the analysis of film. Western is currently losing students to out-of-state institutions that offer film studies programs. It is estimated that the program would attract 25-30 students the first year and would grow from there.

The Film Studies minor will require a minimum of 21 semester hours of credit including nine hours of core courses and 12 hours of electives.

This new minor will respond to several goals found in Western's Strategic Plan, Challenging the Spirit, including **Strategic Goal 1: Increasing Student Learning and Strategic Goal 4: Enhancing Responsiveness to Constituents.**

COST IMPLICATIONS: The minor in Film Studies will be staffed by existing faculty in Potter College of Arts, Humanities, and Social Sciences. Since the courses already exist and are currently offered, no new or additional faculty are needed. The director of the minor will be chosen from existing Potter College faculty members who teach courses in the minor.

RECOMMENDATION: President Ransdell recommends approval of a new interdisciplinary minor in Film Studies.

APPROVED: Academic Affairs Committee, December 14, 2001

Motion for approval to establish a new interdisciplinary minor in Film Studies effective with the spring 2002 semester was made by Ms. Loafman, seconded by Professor Miller, and carried unanimously.

7.1.2 Recommendation for approval of Emeritus/a Faculty appointments

FACTS: Provost and Vice President for Academic Affairs supports the listed faculty members who have been recommended by the tenured faculty, department head, and college dean to be awarded Emeritus/a status. They each have served the university for at least ten years and have had distinguished records of achievement and service at the University.

Potter College of Arts, Humanities and Social Sciences

Department of English

Dr. Lee Little, Professor of English, Emeritus

Department of Music

Mr. Bennie Beach, Professor of Music, Emeritus

Dr. Kent Campbell, Professor of Music, Emeritus

Dr. Howard Carpenter, Professor of Music, Emeritus

Dr. Virgil Hale, Professor of Music, Emeritus

Dr. David Livingston, Professor of Music, Emeritus

Mr. Ohm Pauli, Professor of Music, Emeritus

Ms. Ruth Morriss, Assistant Professor of Music, Emerita

Dr. Thomas Watson, Professor of Music, Emeritus

Ogden College of Science and Engineering

Department of Computer Science

Dr. Chester Davis, Professor of Computer Science, Emeritus

Department of Geography and Geology

Dr. James Davis, Professor of Geography and Geology, Emeritus

Dr. James Taylor, Professor of Geography and Geology, Emeritus

Dr. Noland Fields, Professor of Geography and Geology, Emeritus

Department of Mathematics

Dr. John Brevit, Assistant Professor of Mathematics, Emeritus

Dr. Robert Bueker, Professor of Mathematics, Emeritus

Dr. Betty Detwiler, Professor of Mathematics, Emerita

Mr. George Downing, Associate Professor of Mathematics, Emeritus

Mr. Osburn Flener, Assistant Professor of Mathematics, Emeritus

Ms. Pat Hooper, Assistant Professor of Mathematics, Emerita

Dr. Wilburn Jones, Professor of Mathematics, Emeritus

Mr. Robert Krenzin, Assistant Professor of Mathematics, Emeritus

Dr. Pauline Lowman, Professor of Mathematics, Emerita

Ms. Carol Reagles, Assistant Professor of Mathematics, Emerita

Ms. Hope Richards, Assistant Professor of Mathematics, Emerita

Dr. Martha Watson, Professor of Mathematics, Emerita

Mr. Dallas Wheat, Assistant Professor of Mathematics, Emeritus

College of Education and Behavioral Sciences

Department of Consumer and Family Sciences

Dr. Virginia Atkins, Associate Professor of Consumer and Family Sciences, Emerita

Dr. Sallye Clark, Professor of Consumer and Family Sciences, Emerita

Dr. Lou Ehrcke, Associate Professor of Consumer and Family Sciences, Emeritus

Dr. Shirley Gibbs, Associate Professor of Consumer and Family Sciences, Emerita

Dr. Violet Moore, Professor of Consumer and Family Sciences, Emerita

Department of Middle Grades and Secondary Education

Ms. Mary Crisp, Associate Professor of Middle Grades and Secondary Education,
Emerita

Dr. James Koper, Professor of Middle Grades and Secondary Education, Emeritus

Dr. Archie Laman, Professor of Middle Grades and Secondary Education, Emeritus

University Library

Department of Library Automation & Technical Services

Ms. Janice Massannat, Assistant Professor of Library Automation & Technical Services, Emerita

Department of Library Public Services

Ms. Jean Almand, Assistant Professor of Library Public Services, Emerita
Ms. Elizabeth Cossey, Associate Professor of Library Public Services, Emerita
Dr. Marvin Leavy, Professor of Library Public Services, Emeritus
Ms. Adolfina Simpson, Assistant Professor of Library Public Services, Emerita
Dr. Sally Ann Strickler, Professor of Library Public Services, Emerita
Ms. Evelyn Thrumman, Professor of Library Public Services, Emerita
Mr. Gene Whicker, Associate Professor of Library Public Services, Emeritus
Ms. Mary Margaret (Peggy) Wright, Professor of Library Public Services, Emerita

Department of Library Special Collections

Ms. Jeannette Farley, Assistant Professor of Library Special Collections, Emerita
Mr. Riley Handy, Associate Professor of Library Special Collections, Emeritus
Ms. Penny Harrison, Assistant Professor of Library Special Collections, Emerita
Ms. Nancy Solley, Assistant Professor of Library Special Collections, Emerita

Motion for approval of awarding Emeritus/a status to those individuals named in the recommendation was made by Ms. Loafman, seconded by Ms. Wathen and carried unanimously.

7.2.3 Approval of the reorganization of Enrollment Management

BACKGROUND: With the retirement of the Director of Admissions and Academic Services, a review of the functioning components of Enrollment Management has been conducted, and the following changes have been recommended.

- Move responsibility for university scholarships from the Office of Admissions to the Office of Student Financial Aid;
- Move OAR (Orientation, Advisement, and Registration) planning to the Academic Advising and Retention Center; and
- Move the preparation of the Catalog and the responsibility for class scheduling to the Office of the Registrar.

RECOMMENDATION: President Gary A. Ransdell recommends approval of the reorganization of Enrollment Management as outlined in the three bulleted items listed above.

Motion for approval of the recommended reorganization of Enrollment Management was made by Ms. Loafman, seconded by Ms. Bedo, and carried unanimously.

7.2 Finance and Budget Committee, Mr. Cornelius A. Martin, Chair

7.2.1 Recommendation for approval of Educational and General (E&G) Fund Balance Allocations

FACTS: Fund balances are categorized as accounting requirements, reserve, previously approved Board of Regents commitments, and balances returned to divisions based on University policies. The total unrestricted fund balance, as of June 30, 2001 was \$10,506,680.77. The University's accounting system included an E&G fund balance of

\$7,783,112.04 and an Auxiliary Enterprises fund balance of \$2,723,568.73. The University separates the amounts in recognition that the auxiliary programs are 100 percent self-supporting and that all of their fund balance is returned for the enhancement of the auxiliary operations. (See next agenda item.) The E&G Reserve is \$2,060,000.

Due to a significant deficit in the University's self-insurance health program, the Carry Forward Policy was suspended last year. It is recommended that the Carry Forward Policy be reinstated this year. In order to fully implement the policy, it will be necessary to transfer Plant Fund balances, which were held for deferred maintenance matching, to the E&G budget and allocate \$26,343.68 from the budgeted institutional contingency. It is noted that the Athletics Department finished the year with a deficit of \$116,692 primarily due to unbudgeted expenses associated with hosting the NCAA playoff football games and the Women's NIT games. This deficit has been repaid in the current fiscal year by a transfer from Athletics to the budgeted institutional contingency account.

The balances in revenue dependent units and carry forward funds, consistent with University policies, have been reserved for the respective programs. These programs include, for example, the Center for Gifted Studies, *College Heights Herald*, previously awarded unit productivity awards (Academic Affairs), and previously awarded faculty and graduate research awards. **Attachment A details these funding obligations.**

RECOMMENDATION: President Gary A. Ransdell recommends that the Board of Regents approve the Educational and General fund balance allocations.

APPROVED: Finance and Budget Committee, December 14, 2001

MOTION for approval of the Educational and General fund balance allocations

was made by Mr. Martin, seconded by Professor Miller, and carried unanimously.

7.2.2 Recommendation for approval of Auxiliary Enterprises Fund Balance

FACTS: Western's 2002-2008 Six-Year Capital Plan, which was submitted to the Capital Planning Advisory Board (CPAB) and the Council for Postsecondary Education (CPE), contained an agency funded project to renovate Downing University Center (DUC) at an estimated cost of \$11 million. DUC is a focal point for student life and has not been renovated since it was built 31 years ago. Certain areas of the building have been repaired when system failures have occurred, but much of the building is in need of cosmetic renovation and life safety improvements. Repairs are being made as funds are identified within the auxiliary enterprises resources.

RECOMMENDATION: President Gary A. Ransdell recommends the allocation of \$200,000 from the Auxiliary Fund Balance for architectural and engineering fees to complete a DUC renovation design through Phase A, Schematic Design.

APPROVED: Finance and Budget Committee, December 14, 2001

Motion for approval of the allocation of \$200,000 from the Auxiliary Enterprises fund

was made by Mr. Martin, seconded by Ms. Gray, and carried.

7.2.3 Recommendation for approval of revisions to the 2001-02 Operating Budget

FACTS: The proposed revisions to the Western Kentucky University 2001-02 Operating Budget, in the amount of \$24,500, are as follows: \$10,000 from the WKU Foundation to help with expenses for the Judy Chicago exhibit; \$10,000 for a game guarantee for the women's basketball team to play Stanford; and \$4,500 for reimbursements from various vendors to be allocated back to the departments.

<u>Source</u>	<u>Proposed Revision</u>
Educational and General	
Intercollegiate Athletics	\$10,000
Miscellaneous Receipts	4,500

Other Sources, WKU Fdn	10,000
TOTAL	\$24,500

<u>Use</u>	
Athletics, Womens Basketball	\$10,000
Women's Studies	10,000
Dean, College of Education	350
Western Players	60
Institutional Contingency	90
TOTAL	\$24,500

RECOMMENDATION: President Gary A. Ransdell recommends that the revisions to the Western Kentucky University 2001-02 Operating Budget be approved.

APPROVED: Finance and Budget Committee, December 14, 2001

Motion for approval of the revisions to the 2001-02 Operating Budget was made by Mr. Martin, seconded by Ms. Bedo and carried unanimously.

7.2.4 Request Acceptance of the Accountants' Report and Financial Statements, WKYU-TV and WKYU-FM Radio.

FACTS: Annually, Western Kentucky University contracts with Baird, Kurtz & Dobson (BKD) to provide an audit of the financial statements for WKYU-TV and WKYU-FM Radio. The separate audits are required under the contractual funding arrangements of Western with the Corporation for Public Broadcasting. The financial statements present fairly, in all material respects, the financial position as of June 30, 2001 and results of operations and cash flows for the year then ended. Both of the financial statements received unqualified opinions.

RECOMMENDATION: President Gary A. Ransdell recommends that Board of Regents accept the accountants' report and financial statements, for WKYU-TV and WKYU-FM Radio for the year ended June 30, 2001.

APPROVED: Finance and Budget Committee, December 14, 2001

Motion to accept the Accountants' report and financial statements for WKYU-TV and WKYU-FM Radio was made by Mr. Martin, seconded by Mr. Sheffer, and carried.

7.2.5 REQUEST: Approval of the 2002-03 Institutional Budget Priorities.

FACTS: At the December 14, 2001 meeting of the Finance and Budget Committee, an agenda item, "Development of the 2002-03 Operating Budget," was discussed. (See pages 18-20 in these agenda materials.) In this agenda item many of Western Kentucky University's most pressing funding needs were identified. As discussed, providing improved compensation for our employees is a necessity. In 1999-2000, the University was able to provide a salary increase pool of only 3 percent followed by a 2 percent salary increase pool in 2000-01. Benchmark comparisons document the University's inability to provide compensation at a level to maintain our competitiveness. Board action approval of the 2002-03 Tuition and Fees Schedule was, in part, a response for the need to generate additional revenue to attract and retain the best faculty and staff. Furthermore, budget pressures resulting from an enrollment increase of over 11 percent must be addressed with or without an increase in state funding.

For timely development of the operating budget, it is necessary for the Board of Regents to provide more formal direction to the Administration for the allocation of projected increases in tuition and state appropriation revenue. Listed below are the proposed 2002-03 institutional budget priorities to guide the Administration's budget development. The University's Budget Council will meet in late January to

start the budget process based on this Board's approval of institutional budget priorities and on Governor Patton's recommended biennial budget submitted to the 2002 General Assembly.

The Board of Regents will be kept informed of the status of the biennial budget and the development of the annual operating budget. The budget calendar proposes that the Finance and Budget Committee will be asked to approve the budget at its May 10, 2002 meeting.

2002-03 Institutional Budget Priorities

Through the allocation of projected increases in tuition and state appropriations revenue and through reallocation of existing budgeted funds, Western Kentucky University's 2002-03 Operating Budget will focus on enhancing educational quality as reflected in the following institutional priorities (*not in priority order*):

- Recruit and retain quality faculty and staff.** Funds are needed to provide salary increases (cost-of-living, equity adjustments, and merit pools in recognition of outstanding performance), to improve the market competitiveness of the University's salaries (market adjustment pools), and to improve benefits with specific attention given to rising health insurance costs.
- Assure academic quality in addressing enrollment growth.** Funds are needed for additional faculty and staff positions and for operational costs, both on campus and at extended campus sites, to support enrollment growth.
- Improve our physical resources.** Funds are needed on an ongoing basis to address campus maintenance and utilities requirements and to protect the University's investment in plant. Funds also will be required for opening the new Media and Technology Hall.
- Provide permanent funding for needs that have been met routinely by nonrecurring allocations.** Funds are needed for continued implementation of selected items that are in the University's *Strategic Plan* and for which no permanent funding has been identified in previous budgets.
- Develop marketing program to ensure desirable applicant pool and optimum enrollment.** Funds are needed to aggressively seek applicants and to ensure an enrollment of expected quality and quantity.
- Rebuild University contingency funds and identify opportunities to generate additional revenue.** Funds are needed to address unanticipated expenses, to take advantage of opportunities that may include public/private partnerships, and to fund start-up costs or studies of potential new revenue-generating initiatives.

There are numerous other needs identified for which no funding or inadequate funding is available. Where feasible, additional funding must come from reallocations and carry forward allocations within divisions.

Motion for approval of the 2002-03 Institutional Budget Priorities was made by

Mr. Martin, seconded by Mr. Fischer, and carried.

7.3 Executive Committee, Ms. Kristen Bale, Chair

7.3.1 Recommendation for approval of the Memorandum of Agreement (Revised) between City of Bowling Green, Hilltopper Athletic Foundation, and Western

Kentucky University for the renovation of E.A. Diddle Arena and related athletic facilities

Secretary's Note: The proposed Memorandum of Agreement is attached to these minutes as **Attachment B**.

Motion for approval was made by Ms. Gray, seconded by Ms. Bedo, and carried unanimously

7.3.2 Recommendation for approval of a *Resolution of Agreement* between Western Kentucky University and the Office for Civil Rights pertaining to the University's *Title IX Plan of Compliance*

Background: In 1995, the Board of Regents approved a plan for Title IX compliance for Western Kentucky University which was aimed at compliance through two methods: (1) demonstrating continuing program expansion for female athletes through the addition of swimming, softball, and soccer teams; and (2) providing opportunities that are responsive to the interests and abilities of our female student body. The Plan called for the addition of three women's team sports (swimming, softball and soccer). In addition to this, the Athletics Department and the Office of Institutional Research initiated a survey of students participating in OAR to insure that the sports offerings were responsive to the students' interests and abilities. Survey results have confirmed that the current sports offerings are appropriate.

On June 17, 2001, the University was contacted by the Office for Civil Rights and advised that it had been selected for a compliance review under Title IX. The review was not generated by a complaint or other concern; rather, the University was selected at random for a review as were other colleges and universities in the United States. The review was to cover two areas of Title IX compliance: (1) the allocation of financial aid to student athletes; and (2) whether the University's athletic offerings were meeting the interests and abilities of its female students. A volume of data was requested as part of the review, and such data was compiled by Athletic Department and submitted to OCR on August 13, 2001.

OCR's review did not identify any issues related to the University's allocation of athletic financial aid to its student athletes, the current survey instrument being utilized by the University to determine student interests and abilities, or the results of that survey.

The OCR has requested that the University enter into a Resolution Agreement confirming the University's commitment to continue monitoring student interests and abilities and our allocation of athletic financial aid. Given the University's prior commitment to do both, the University is willing to enter into such an Agreement. A draft of the Resolution Agreement is attached to this memorandum.

APPROVED: Executive Committee, December 14, 2001

The proposed resolution follows:

**PARTNERSHIP AGREEMENT BETWEEN THE
OFFICE FOR CIVIL RIGHTS AND
Western Kentucky University
(Docket Number 03016002)**

Equal educational opportunity, as required by Title IX of the Education Amendments of 1972 (Title IX), entails the equal treatment of students with regard to sex in any education program or activity, including an athletic program. Equal educational opportunity requires, among other things, that

an institution provide reasonable opportunities for the receipt of athletic scholarships of grant-in-aid by members of each sex in proportion to the number of students of each sex participating in an institution's intercollegiate athletic program and effectively accommodates the interests and abilities of students to the extent necessary to provide equal opportunity in the selection of sports and levels of competition available to members of both sexes. Where the athletic financial assistance awarded to members of one sex is not substantially proportionate to the rate of participation of members of that sex in the institution's intercollegiate athletic program and the disproportionate amounts of athletic aid cannot be explained by adjustments to take into account legitimate nondiscriminatory factors, the institution has an obligation to rectify those disparities.

The Office for Civil Rights (OCR), U.S. Department of Education, has identified the issue of equity in the awarding of athletic financial assistance and the effective accommodation of student interests and abilities as priority civil rights issues, in accordance with its policy of seeking the proactive involvement of institutions in assuring compliance with the statutes it enforces. Western Kentucky University (the University) joined with OCR to cooperatively examine these important civil rights issues and ensure equal opportunity for male and female athletes. The parties acknowledge that the examination conducted by OCR, the cooperative effort between the University and OCR, and the resulting partnership agreement were not prompted by nor the result of any complaint made to the OCR or the University. Furthermore, the University does not admit to a violation of Title IX with respect to the above two issues and the OCR made no finding that such violations have occurred.

To this end, OCR and the University agree to the following:

1. By June 30, 2002, the University will conduct an assessment to determine whether its current athletic offerings effectively accommodate the interest and abilities of its students. The assessment will have a University-wide focus identifying the athletic interests and abilities of its current students and will take into account national trends and local competitive opportunities in athletics for men and women.
2. If the parties (OCR and the University) determine, based upon the results of the assessment conducted under Paragraph #1 above, that the University's current athletic offerings do not fully and effectively accommodate the athletic interests and abilities of its women students, then by June 30, 2002, the University will identify modifications in its current athletic offerings that will effectively accommodate the interests and abilities of its current women students, in accordance with 34 C.F.R. Section 104.61(c). If any such modifications are necessary, then during the 2002-2003 academic year, the University will take all necessary steps (scheduling, league approvals, etc.) to begin to modify its current athletic offerings. If the University must add one or more new women's sports teams to fully and effectively accommodate the athletic interest and abilities of its women students, then these teams will be established and will be able to begin competition in the appropriate season, beginning no later than September 1, 2003. These teams will complete at least at the experimental or intramural sport level by September 1, 2003, but at the intercollegiate level no later than September 1, 2004. In future/subsequent years, if the results of the assessment conducted under Paragraph #1 above reveal that the University's current athletic offerings do not fully and effectively accommodate the athletic interests and abilities of its women students, then the University will comply with the provisions of this paragraph utilizing the time frames outlined herein.
3. The University will continue to assess whether its athletic offerings accommodate the athletic interests and abilities of its women students, particularly when the University is proposing to change its athletic offerings or when the University has an indication that the athletic interests of its women students have changed. The University will periodically do further assessments consistent with Paragraph #1 above as the need becomes apparent.
4. By no later than the beginning of the 2002-2003 academic year, and for each ensuing academic year thereafter, the total amount of athletic scholarship aid made available to men and women participating in the University's intercollegiate athletic program will be substantially proportionate to its respective participation rates, subject only to disparities that can be explained, consistent with the Policy Interpretation issued December 11, 1979, and found at 44 Fed. Reg. 71.413, 71.4125. The University can assert specific, nondiscriminatory factors that it believes are causing a disparity in the awarding of athletic financial assistance. As an example, the University may explain any disparity on the basis that the value of a scholarship differs among athletes based on gender-neutral factors. However, OCR will carefully examine any proffered justification to ensure that the disparity, is not, in fact, caused by policies or practices that discriminatorily limit the availability of scholarships to members of one sex.

Reporting Requirements

5. By October 30, 2002, the University will provide a report of the efforts it has made toward accommodating the athletic interests and abilities of its women students. The report should include a copy of any assessment instrument used by the University, and the results and analysis of the assessment and what actions the University is taking or intends to take, including time frames, to establish any modifications to its current athletic offerings to meet the needs of its women students.

6. By July 1, 2002, July 1, 2003, and July 1, 2004, the University will submit a status report of the previous academic year, showing its progress in complying with Paragraphs #1, #2, #3 and #4. At a minimum, the report will include the following information:

- a. The number of athletes who participated on each team by sex. Also, the squad lists or eligibility lists (for example, the NCAA squad list) which accurately identify all athletic participants who were on each team, as well as a list of all athletes who participated on more than one intercollegiate team and the teams on which they participated.
- b. A list of all athletes who received athletic scholarship monies of any amount, including for each athlete, the team(s) on which the athlete competed, whether the athlete was considered an in-state or out-of-state resident for financial purposes, the amount of the scholarship that was for summer school expenses, and the total amount of scholarship dollars awarded.
- c. A report showing the number of male and female athletic participants and the total financial assistance awarded for men and women, if these figures are different from those provided in a. and b. above.
- d. A statement of the value of a full athletic scholarship or grant for an in-state and out-of-state student athlete (including but not limited to tuition, room and board, books, summer school tuition, course and other fees, etc.), and the dollar value of each component of the scholarship or grant.
- e. A copy of the athletic financial assistance budgets and actual expenditures for the men's and women's programs, by team and line item.
- f. Any additional information which the University believes demonstrates that any differences in the awarding of athletic financial assistance to male and female athletes can be explained by legitimate, nondiscriminatory factors.
- g. The undergraduate enrollment, by sex.

7 In addition, the University agrees to monitor, on an ongoing, annual basis, changes in intercollegiate athletic participation rates and adjust athletic scholarship awards as necessary to ensure that the total amount of athletic scholarship aid made available to men and women participating in the University's intercollegiate athletic program remains substantially proportionate to its respective participation rates, or that any disparity in the allocation of scholarship aid can be explained by legitimate, nondiscriminatory factors.

Dr. Gary A. Ransdell
President, Western Kentucky University

Date

Wendella P. Fox
Director, OCR, Philadelphia Office

Date

Motion for approval of the recommended Partnership Agreement between the Office for Civil Rights and the University was made by Ms. Gray, seconded by Mr. Martin, and carried unanimously.

7.3.3 Snapshot of the Campaign as of November 30, 2001

Mr. Tom Hiles, Vice President for Institutional Advancement, announced the following gifts:

- Center Care Health Benefit Programs - \$100,000 endowment to fund the “Charles M. Stewart Scholarship;” and
- J. Clifford Todd - \$850,000 to create the Center for Longevity and Healthful Living;

Mr. Hiles also announced that \$70.2 million in cash and pledges in support of the “*Investing in the Spirit Campaign*” has been raised which represents 90 percent of the five-year goal of \$78 million.

In addition, Mr. Hiles reviewed and updated the charts of campaign numbers found on pages 41-50 of the agenda packet and discussed recent actions of the Foundation Board.

7.3.4 Second Quarter Media Report - October 1/December 31, 2001

Mr. Bob Edwards, Assistant Vice President for University Relations, discussed the quarterly meeting report found on pages 51-55 of the agenda. He noted increases across the board in print and electronic coverage and noted the next quarterly report will be the result of a priority plan that will reflect not only quantity but quality.

7.3.5 Appointment of a committee to coordinate and facilitate the President’s evaluation by the Board

Chair Bale appointed a three-member committee, chaired by Ms. Gray, to facilitate the President’s evaluation. Earl Fischer and Mary Ellen Miller are the other appointed members of the Committee.

7.4 Student Affairs Committee, Mr. Jim Tennill, Chair

Mr. Tennill reported an informational meeting of the Committee on December 14. There were no action items.

7.5 Special Committee on Diversity and Internationalism, Professor Mary Ellen Miller, Chair

Professor Miller reported on the Committee’s December 14 meeting. The Committee looked at the new Bylaws of the Diversity Committee and the minutes of the last three meeting of the Committee as well as the CPE Partnership Agreement.

Since the Committee met, a Diversity Workshop has been finalized that will occur on January 29 with a morning and afternoon session. Board members were urged to attend one

of the sessions. In addition, the Martin Luther King celebration was held on campus with President Ransdell giving the welcome followed by a presentation by Judge Joe Brown.

Dr. Caillouet provided the updated numbers related to the international programs. There was no action by the Committee.

AGENDA ITEM 8 - Personnel Actions (To follow Item 9)

AGENDA ITEM 9 - Other Business

9.1 Motion to go into Executive Session was made by Ms. Loafman and seconded by Ms. Bedo. The purposes of the session are:

- (1) **deliberations and discussion related to future acquisition or sale of real property by the University, pursuant to KRS.61.810(1)(b).**

The reason for the closed session is that public discussion and publicity of proposed real property acquisitions or sales would likely affect the value of the specific property to be acquired or sold; and

- (2) **discussions which might lead to the appointment or dismissal of an individual employee, as provided under KRS 61.810(1)(f).**

The nature of the business to be discussed is a confidential personnel matter pertaining to an individual employee, and the reason for the closed session is the privacy considerations with respect to the individual employee; and

- (3) **a discussion regarding information contained in proposals submitted by competing offerors pursuant to KRS 45A.085(6) and KRS 61.810(k).**

The reason for the closed session is that the specific information to be discussed is required to be conducted in privacy under Kentucky law until such time as a contract is awarded.

The Board accompanied by President Ransdell and Ms. Esters went into closed session at approximately 10:20 a.m. Others remaining in the session were: Dr. Barbara Burch; Mr. John Osborne; Mr. Bob Edwards; Dr. Gene Tice; Mr. Tom Hiles; Ms. Ann Mead; Dr. Wood Selig; Dr. Richard Kirchmeyer; Ms. Deborah Wilkins; Ms. Robbin Taylor, and Ms. Julie Ransdell.

Returning from closed session at approximately 11:30 a.m., Chair Bale stated. "The subject of the discussion and deliberations during the closed session were restricted to those in the motion, and no formal action was taken by the Board in closed session."

AGENDA ITEM 8 - Presentation of personnel actions since October 26, 2001

The recommended personnel actions are contained in the next eight pages.

PERSONNEL CHANGES - FACULTY

Department	Employee	Title	Effective Date	End Date	Salary	Proposed Salary	Type Action
Mathematics	Ferhan Atici	Visiting Assistant Professor	01/01/2002	12/31/2002		\$13,200.00	Appointment
School of Journalism & Broadcasting	John Barnum	Associate Professor	01/01/2002		\$55,920.00		Leave, Return
Architectural & Manufacturing Sciences	Yalcin M. Ertekin	Assistant Professor	01/01/2002		\$43,500.00	\$50,508.00	Salary Increase
Architectural & Manufacturing Sciences	Tzu-Liang Tseng	Assistant Professor	01/01/2002		\$43,500.00	\$50,004.00	Salary Increase
Counseling & Student Affairs	Susan James	Professor	01/01/2002		\$54,540.00	\$10,200.00	Status Change
Center for Teaching & Learning	Sally L. Kuhlenschmidt	Director	01/01/2002		\$225.00/mo	\$300.00/mo	Stipend
Community College	Sherry M. Reid	Chair	11/01/2001	12/31/2001	\$500.00/mo		Stipend
Community College	Sherry M. Reid	Interim Dean	01/01/2002	06/30/2002	\$750.00/mo		Stipend
Honors Program	Douglas McElroy	Director	01/01/2002		\$225.00/mo	\$300.00/mo	Stipend
Institute for Economic Development	Aaron W. Hughey	Interim Director	01/01/2002	06/30/2002	\$500.00/mo		Stipend
International Programs	Larry M. Caillouet	Director	01/01/2002		\$225.00/mo	\$300.00/mo	Stipend
Women's Studies	Jane Olmsted	Director	01/01/2002		\$225.00/mo	\$300.00/mo	Stipend
Mathematics	Robert C. Bueker	Professor	01/01/2002	06/30/2002		\$28,524.00	Rehire
Biology	Martin Houston	Professor	07/01/2002				Optional Retire
Chemistry	Charles H. Henrickson	Professor	01/01/2002		\$66,132.00	\$12,408.00	Optional Retire
English	M. Wanella Huddleston	Associate Professor	07/01/2002	06/30/2003			Opt Ret, Leave
Government	George Masannat	Professor	01/01/2002		\$7,440.00	\$14,868.00	Opt Ret/Chg
Management & Information Systems	Stephen D. House	Assistant Professor	01/01/2002		\$86,568.00	\$13,284.00	Optional Retire
Psychology	Shula Mussnug	Associate Professor	01/01/2002		\$46,620.00	\$8,742.00	Optional Retire
School of Journalism & Broadcasting	James Wesolowski	Professor	01/01/2002		\$16,332.00	\$10,884.00	Opt Ret/Chg
Elementary Education	John Kiraly	Professional-in Residence	10/05/2001	06/30/2002			Title Change
Physical Education & Recreation	William J. Meadors	Professional-in-Residence	10/05/2001	06/30/2002			Title Change
Modern Languages & Intercultural Studies	James C. Babcock	Professor	12/14/2001				Death
Consumer & Family Sciences	Joyce Rasdall	Professor	12/31/2001				Retired
Music	David Terrill Kelsey	Professor	12/31/2001				Retired
Physical Education & Recreation	Charles Daniel	Professor	12/31/2001				Retired
Agriculture	Haibo Liu	Associate Professor	12/31/2001				Resignation
Special Instructional Programs	Robert Grant McKenzie	Professor	12/31/2001				Resignation

PERSONNEL CHANGES - FACULTY
(continued)

Department	Employee	Title	Effective Date	End Date	Salary	Proposed Salary	Type Action
Biology	Sigrid Jacobshagen	Associate Professor	Fall 2002				Sabbatical
Biology	Doug McElroy	Associate Professor	Fall 2002				Sabbatical
Biology	Michael Stokes	Associate Professor	Fall 2002				Sabbatical
Communication	George Musambira	Associate Professor	Fall 2002				Sabbatical
Economics	Catherine Carey	Associate Professor	Spring 2003				Sabbatical
Economics	H. Youn Kim	Professor	Fall 2002				Sabbatical
English	Elizabeth Oakes	Professor	Spring 2003				Sabbatical
English	John Spurlock	Professor	Fall 2002				Sabbatical
Geography & Geology	Nicholas Crawford	Professor	Academic Year 2002-2003				Sabbatical
Geography & Geology	Michael May	Associate Professor	Spring 2003				Sabbatical
History	Hugh Phillips	Professor	Spring 2003				Sabbatical
Library Public Services	Charles H. Smith	Science Librarian/Associate Prof	Spring 2003				Sabbatical
Mathematics	David Neal	Professor	Fall 2002				Sabbatical
Modern Languages & Intercultural Studies	Johnston Njoku	Associate Professor	Fall 2002				Sabbatical
Music	Marshall Scott	Professor	Fall 2002				Sabbatical
Nursing	Beverly Siegrist	Associate Professor	Fall 2002				Sabbatical
Philosophy & Religion	Larry Mayhew	Professor	Fall 2002				Sabbatical
Philosophy & Religion	Joseph Trafton	Professor	Spring 2003				Sabbatical
Psychology	J. Farley Norman	Associate Professor	Fall 2002				Sabbatical

PERSONNEL CHANGES - GRANTS

Department	Employee	Title	Effective Date	End Date	Salary	Proposed Salary	Type Action
Equal Opportunity/504/ADA Compliance	Stephanie F. Lau	Coordinator II	10/26/2001	06/30/2002		\$40,008.00	Appointment
Elementary Education	Staci H. Nash	Director	01/01/2002	06/30/2002		\$36,000.00	Appointment
Library Special Collections	Kenna Beth Brophrey	Pt-Temp Clerical/Secretarial	10/01/2001	03/31/2002		\$8,424.00	Appointment
Library Special Collections	Stephanie A. Elmore	Pt-Temp Clerical/Secretarial	10/01/2001	03/31/2002		\$8,424.00	Appointment
T/TAS - Child Care	Stephany Nelson	Pt-Temp Technician/Paraprof	01/01/2002	08/31/2002		\$8,320.00	Appointment
T/TAS - Child Care	Claudene F. Oliva	Coordinator III	11/28/2001	06/30/2002		\$34,524.00	Appointment
T/TAS - Child Care	Maria Scott	Teacher	01/02/2002	06/30/2002		\$13,440.00	Appointment
T/TAS - Head Start	Enriqueta Nelson	Teacher	09/17/2001	10/31/2002		\$23,040.00	Appointment
T/TAS - Head Start	Jennifer Pemberton	Coordinator, Family Services	08/01/2001	10/31/2001		\$31,500.00	Appointment
T/TAS - Head Start	Sherry K. York	Pt-Regular Tech/Paraprof	10/22/2001	10/31/2002		\$7,540.00	Appointment
Biology	Seth M. Johnson	Pt-Regular Service/Maint	10/01/2001	10/31/2001	\$10,400.00	\$10,400.00	Reappointment
Geography & Geology	John Alan Glennon	Research Hydrologist	10/01/2001	09/30/2002	\$25,008.00	\$25,512.00	Reappointment
Ogden College of Science and Engineering	Ouida W. Meier	Project Specialist	10/01/2001	09/30/2002	\$39,312.00	\$40,104.00	Reappointment
Ogden College of Science and Engineering	Ritchie D. Taylor	Project Director	10/01/2001	09/30/2002	\$50,004.00	\$50,004.00	Reappointment
Physical Education & Recreation	Heidi N. Husband	Pt-Temp Technician/Paraprof	08/01/2001	04/22/2002	\$8,320.00	\$8,320.00	Reappointment
Physics & Astronomy	Aleksandr Barzilov	Research Associate	11/30/2001	09/28/2002	\$40,008.00	\$40,008.00	Reappointment
Physics & Astronomy	Michael Belbot	Sr Research Scientist	10/01/2001	09/30/2002	\$43,344.00	\$46,500.00	Reappointment
Physics & Astronomy	Ivan Novikov	Research Associate	01/16/2002	09/28/2002	\$40,008.00	\$40,008.00	Reappointment
Physics & Astronomy	Jonathan C. Paschal	Computer Specialist	01/01/2002	09/28/2002	\$33,660.00	\$33,660.00	Reappointment
Public Health	Donita Lashley	Health Programs Specialist	09/30/2001	09/29/2002	\$29,232.00	\$29,820.00	Reappointment
Public Health	Glenda G. White	Office Associate	09/30/2001	09/29/2002	\$19,920.00	\$20,316.00	Reappointment
Small Business Development Center	Jill Owen Norris	Coordinator II	10/01/2001	09/30/2002	\$24,528.00	\$25,020.00	Reappointment
Small Business Development Center	Richard S. Horn	Director	10/01/2001	09/30/2002	\$46,284.00	\$47,208.00	Reappointment
T/TAS - Head Start	Yolanda Bell	Teacher	11/01/2001	10/31/2002	\$16,608.00	\$16,608.00	Reappointment
T/TAS - Head Start	Ashraf Boka	Classroom Teacher	11/01/2001	10/31/2002	\$22,908.00	\$23,712.00	Reappointment
T/TAS - Head Start	Sheree D. Daniel	Pt-Regular Tech/Paraprof	11/01/2001	10/31/2002	\$12,480.00	\$12,480.00	Reappointment
T/TAS - Head Start	Oscar Davis	Facilities Associate	11/01/2001	10/31/2002	\$10,510.50	\$10,881.00	Reappointment
T/TAS - Head Start	Connie Dye	Teacher	11/01/2001	10/31/2002	\$15,144.00	\$15,144.00	Reappointment
T/TAS - Head Start	Stephanie Elliott	Coordinator, Education	11/01/2001	10/31/2002	\$35,208.00	\$35,208.00	Reappointment
T/TAS - Head Start	Thelma Mae Jackson	Assistant Director, Child/Family Svc	11/01/2001	10/31/2002	\$45,660.00	\$47,268.00	Reappointment
T/TAS - Head Start	Nathan Phillip Jordon	Center Supervisor	11/01/2001	10/31/2002	\$22,500.00	\$23,292.00	Reappointment
T/TAS - Head Start	Jennifer Pemberton	Coordinator, Family Services	11/01/2001	10/31/2002	\$31,500.00	\$31,500.00	Reappointment
T/TAS - Head Start	Amber Reed	Office Associate	11/01/2001	10/31/2002	\$20,712.00	\$20,712.00	Reappointment
T/TAS - Head Start	Faye A. Wilson	Pt-Regular Tech/Paraprof	11/01/2001	10/31/2002	\$6,926.40	\$6,926.40	Reappointment
T/TAS - Head Start	Thelma Beatrice Woods	Pt-Reg Service/Maint-Building	11/01/2001	10/31/2002	\$7,280.00	\$7,540.00	Reappointment
T/TAS - Head Start	William D. Woods	Pt-Reg Service/Maint-Building	11/01/2001	10/31/2002	\$7,540.00	\$7,800.00	Reappointment
T/TAS - Head Start	Glenda Young	Nutrition Associate	11/01/2001	10/31/2002	\$14,400.00	\$14,400.00	Reappointment
T/TAS - Head Start	Joyce Elaine Young	Pt-Reg Clerical/Secretarial	11/01/2001	10/31/2002	\$9,422.40	\$9,755.20	Reappointment
Training Projects	Shirley Ann Wood	Pt-Reg Clerical/Secretarial	09/01/2001	08/31/2002	\$15,496.00	\$15,724.80	Reappointment

PERSONNEL CHANGES – GRANTS
(continued)

Department	Employee	Title	Effective Date	End Date	Salary	Proposed Salary	Type Action
Gordon Ford College of Business	Gladys P. Jordan	Academic Advisor	11/01/2001	06/30/2002	\$21,924.00	\$23,400.00	Promotion
Biology	Jason Mark Taylor	Ft-Temp Prof/Non-Faculty	06/01/2001	05/31/2002	\$27,000.00	\$32,004.00	Salary Increase
T/TAS - Head Start	Vicki L. Armstrong	Office Assistant	11/01/2001	10/31/2002	\$8,912.80	\$16,716.00	Status Change
T/TAS - Head Start	Yolanda Bell	Teacher	11/01/2001	10/31/2002	\$138.40/mo	\$138.40/mo	Stipend
T/TAS - Head Start	Ashraf Boka	Classroom Teacher	11/01/2001	10/31/2002	\$190.90/mo	\$197.60/mo	Stipend
Intramural & Recreational Sports	Heidi N. Husband	Pt-Regular Tech/Paraprof	11/21/2001				Resignation
Math, Science, & Environmental Education	Dena Dennis	Pt-Reg Clerical/Secretarial	12/20/2001				Resignation
T/TAS - Head Start	Crystal A. Hardeman	Pt-Regular Tech/Paraprof	10/31/2001				Resignation
T/TAS - Head Start	Sherry K. York	Pt-Regular Tech/Paraprof	11/02/2001				Resignation

PERSONNEL CHANGES - STAFF

Department	Employee	Title	Effective Date	End Date	Salary	Proposed Salary	Type Action
Admissions & Academic Services	Adrien D. Deloach	Coordinator III	11/05/2001			\$29,748.00	Appointment
Alumni Relations	Eric L. McWilliams	Pt-Temp Clerical/Secretarial	10/01/2001	08/30/2002		\$8,320.00	Appointment
Building Services	James W. Elmore	Building Services Attendant	10/22/2001			\$12,967.50	Appointment
Building Services	Robert N. Garrison	Building Services Attendant	11/19/2001			\$13,357.50	Appointment
Building Services	Latashia Rena Gray	Building Services Attendant	10/22/2001			\$13,084.50	Appointment
Building Services	Debbie Lynn Gross	Building Services Attendant	11/05/2001			\$12,480.00	Appointment
Building Services	Freda G. Hazel	Building Services Attendant	10/22/2001			\$13,338.00	Appointment
Building Services	Robin Sue Kennedy-Shulda	Building Services Attendant	11/19/2001			\$13,494.00	Appointment
Building Services	Carri Jo Lee	Building Services Attendant	10/22/2001			\$13,728.00	Appointment
Building Services	Ruth Ann Miller	Building Services Attendant	10/22/2001			\$12,480.00	Appointment
Building Services	Allie Ware Moore	Building Services Attendant	11/19/2001			\$13,981.50	Appointment
Building Services	Melony Jean Scott	Building Services Attendant	10/22/2001			\$13,981.50	Appointment
Building Services	Jenmaine Terrell Shirley	Building Services Attendant	11/19/2001			\$12,480.00	Appointment
Building Services	Karen Renee Wingo	Building Services Attendant	11/05/2001			\$12,480.00	Appointment
Campus Services	Walter Franklin	Groundskeeper	12/17/2001			\$14,137.50	Appointment
Campus Services	Rob Matthew Shulda	Sr Groundskeeper	11/05/2001			\$16,575.00	Appointment
Controller	Lynne M. Hutcheson	Accounts Payable Associate	11/12/2001			\$18,504.00	Appointment
Correspondence Studies	Amy Elizabeth Smith	Office Associate	11/01/2001			\$22,920.00	Appointment
Downing University Centers	Emily Butler	Pt-Regular Prof Non-Faculty	08/13/2001			\$6,760.00	Appointment
Educational Television Services	David Mabrey	Pt-Regular Tech/Paraprof	08/20/2001			\$7,280.00	Appointment
English	Carmen Newell	Pt-Reg Clerical/Secretarial	12/03/2001			\$8,320.00	Appointment
Equal Opportunity/504/ADA Compliance	Amanda Curtis	Office Coordinator	12/10/2001			\$21,000.00	Appointment
Equal Opportunity/504/ADA Compliance	Sam Buell Starks	Coordinator II	11/19/2001			\$26,004.00	Appointment
Extended Campus - Owensboro	Susan B. Rice	Pt-Reg Clerical/Secretarial	11/12/2001			\$8,008.00	Appointment
Extended Campus - Owensboro	Amy Westerfield	Pt-Reg Service/Maint (other)	11/19/2001			\$8,008.00	Appointment
Facilities Fiscal Services	Raymond Doyle Womack	Pt-Reg Service/Maint (other)	10/22/2001			\$8,736.00	Appointment
Human Resources	Sheila F. Dunn	Pt-Reg Clerical/Secretarial	10/25/2001			\$8,060.00	Appointment
International Programs	Yating Chang	Study Abroad Advisor	10/09/2001			\$25,500.00	Appointment
International Programs	Silvina V. Fernandez	Office Associate	12/03/2001			\$19,008.00	Appointment
Intramural & Recreational Sports	Laura L. Hall	Exercise Coordinator	12/17/2001			\$25,728.00	Appointment
Intramural & Recreational Sports	Charles Napier	Pt-Temp Technician/Paraprof	10/01/2001	10/01/2002		\$5,356.00	Appointment
Intramural & Recreational Sports	Michael Timothy Twigg	Facility Coordinator	10/22/2001			\$25,728.00	Appointment
Library Public Services	Roxanne Myers Spencer	Coord, Educ Resources Center	11/01/2001			\$34,008.00	Appointment
Library Special Collections	Lynne H. Ferguson	Pt-Temp Prof Non-Faculty	09/17/2001	07/31/2002		\$18,408.00	Appointment
Maintenance Services	Sherman Adams	Supv, Preventative Maintenance	12/17/2001			\$40,501.50	Appointment
Maintenance Services	Nathan L. Brindley	Maintenance Technician	12/17/2001			\$19,500.00	Appointment
Maintenance Services	Nathan Levay Hale	Electrician	12/03/2001			\$20,592.00	Appointment
Maintenance Services	Herbert Hess	Electrician	01/14/2002			\$22,659.00	Appointment
Maintenance Services	Bobby Dale Parnell	Ft-Reg Technician/Paraprof	10/01/2001			\$32,526.00	Appointment
Maintenance Services	Christopher Radus	Maintenance Technician	12/17/2001			\$18,817.50	Appointment
Maintenance Services	John J. Styles	Ft-Reg Technician/Paraprof	10/01/2001			\$17,160.00	Appointment
Men's Basketball	Julie F. Fryia	Office Associate	10/08/2001			\$24,144.00	Appointment
Men's Basketball	Donald Jermaine Spann	Strength & Conditioning Coach	10/08/2001			\$21,000.00	Appointment

PERSONNEL CHANGES - STAFF
(continued)

Department	Employee	Title	Effective Date	End Date	Salary	Proposed Salary	Type Action
Minority Student Support Services	Heather M. Thomas	Pt-Temp Technician/Paraprof	08/27/2001	06/02/2002		\$6,240.00	Appointment
Public Affairs	Stephen Barnett	Ft-Temp Prof Non-Faculty	12/17/2001	12/16/2002		\$26,004.00	Appointment
Registrar's Office	Judith J. Gerhardt	Student Records Associate	11/05/2001			\$19,008.00	Appointment
Sponsored Programs	Tricia Lynn Callahan	Coord, Proposal Development	11/26/2001			\$43,008.00	Appointment
Sponsored Programs	Duncan Faxon	Pt-Regular Prof Non-Faculty	09/12/2001			\$31,200.00	Appointment
Student Health Service	Betsy Jo M. Reed	Pt-Regular Tech/Paraprof	11/19/2001			\$14,560.00	Appointment
University Relations	Robert W. Edwards	Assistant Vice President	01/01/2002			\$78,000.00	Appointment
WKU Police Department	Craig M. Sutter	Police Officer	01/07/2002			\$21,408.00	Appointment
Development	J. Lee Robertson	Pt-Regular Prof Non-Faculty	01/01/2002	12/31/2002	\$28,400.00	\$28,400.00	Reappointment
Telecommunications	Tammi R. Beach	Pt-Temp Clerical/Secretarial	10/20/2001	10/28/2002	\$8,320.00	\$8,944.00	Reappointment
Alumni Relations	Donald L. Smith	Assistant Vice President	01/01/2002		\$61,200.00	\$62,208.00	Promotion
Controller	Julie L. Ahlers	Assistant Bursar, Billings & Rec	11/19/2001		\$26,532.00	\$32,364.00	Promotion
Development	John Paul Blair	Asst Vice Pres/Major Gifts & GFC	01/01/2002		\$70,512.00	\$71,520.00	Promotion
Gordon Ford College of Business	Tabatha J. Lear	Office Associate	01/01/2002		\$19,872.00	\$21,072.00	Promotion
Governmental Relations	Robbin Morrison Taylor	Director	10/01/2001		\$53,052.00	\$65,004.00	Promotion
Housing & Residence Life	Lisa Maria Cook	Office Coordinator	11/12/2001		\$19,032.00	\$24,504.00	Promotion
HVAC/Utilities Services	Clifton Ernie Johnson	Supervisor, HVAC	10/22/2001		\$23,868.00	\$32,760.00	Promotion
Maintenance Services	Chester McNulty	Elevator Mechanic	09/24/2001		18,525.00	\$20,865.00	Promotion
Ogden College of Science & Engineering	Casey L. Peden	Information Technology Consultant	11/01/2001		\$26,520.00	\$30,000.00	Promotion
Maintenance Services	Robert Upchurch	Electrician	11/05/2001		\$300.00/Lump Sum		Certification
Educational Television Services	David Brinkley	Sr Producer/Director/Writer	07/01/2001		\$35,928.00	\$42,492.00	Reclass
Military Science	Thomas M. Sutton	Office Associate	01/01/2002		\$17,832.00	\$19,620.00	Reclass
School of Journalism & Broadcasting	Kathy Jo Williams	Office Coordinator	01/01/2002		\$22,188.00	\$24,408.00	Reclass
WKU Police Department	Rafael J. Casas	Police Officer	10/08/2001		\$21,408.00	\$24,504.00	Salary Increase
WKU Police Department	Lawrence A. Dvorak	Police Officer	10/08/2001		\$21,408.00	\$24,504.00	Salary Increase
Telecommunications	Teresa A. Burden	Telephone Support Assistant	12/17/2001		\$9,360.00	\$19,512.00	Status Change
Academic Advising Center	Bradley J. Pittman	Coordinator II	09/05/2001	05/10/2002	\$4,000.00		Stipend
Academic Affairs	Michael C. Dale	Assistant Vice President	01/01/2002		\$500.00/mo		Stipend
Continuing Education	Stephen D. House	Interim Director	12/31/2001				Stipend, End
Men's Football	Donnie L. Martindale	Assistant Coach	07/30/2001		\$275.00/mo		Stipend
Ogden College of Science & Engineering	Blaine Richard Ferrell	Associate Dean	11/01/2001	12/31/2001	\$500.00/mo		Stipend
Ogden College of Science & Engineering	Blaine Richard Ferrell	Acting Dean	01/01/2002	06/30/2002	\$750.00/mo		Stipend
School of Health & Human Services	James David Dunn	Director	01/01/2002	06/30/2002	\$500.00/mo		Stipend
Sports Information	Brian David Fremund	Coordinator I	09/13/2001	06/30/2002	\$270.00/mo		Stipend

PERSONNEL CHANGES – STAFF
(continued)

Department	Employee	Title	Effective Date	End Date	Salary	Proposed Salary	Type Action
Telecommunications	Angela A. Robertson	Telephone Support Associate	09/17/2001		\$150.00/mo	\$300.00/mo	Stipend
Women's Basketball	Shawn Charles Campbell	Head Athletic Coach	10/01/2001		\$250.00/mo		Stipend
Academic Affairs	Lou O. Stahl	Office Associate	01/01/2002	06/30/2002	\$24,000.00	\$25,200.00	Temp Rate Inc
Art	Vicki L. Sharer	Office Associate	10/08/2001		\$20,412.00	\$21,000.00	Transfer
Building Services	Karen Cone	Building Services Attendant	10/22/2001		\$13,864.50	\$14,800.50	Transfer
Building Services	Patricia Gutierrez	Building Services Attendant	10/22/2001		\$12,967.50	\$12,967.50	Transfer
Controller	Shavonna J. Smith	Office Associate	10/12/2001		\$13,656.00	\$19,500.00	Transfer
HVAC/Utilities Services	Christopher S. Burch	HVAC Technician	11/05/2001		\$23,088.00	\$24,238.50	Transfer
Maintenance Services	Larry Goodman	Maintenance Technician	10/22/2001		\$22,171.50	\$22,171.50	Transfer
Women's Basketball	Carrie L. Daniels	Director of Operations	11/20/2001		\$35,004.00	\$35,004.00	Transfer
HVAC/Utilities Services	Michael R. Stinnett	Boiler Operator	12/05/2001				Deceased
Admissions & Academic Services	Sharon B. Dyrsen	Director	12/31/2001				Retired
Controller	Gilda Marie Lee	Billings & Receivables Supervisor	10/31/2001				Retired
Student Financial Assistance	Phyllis Jewell Bessette	Financial Aid Counselor	10/31/2001				Retired
Academic Advising & Retention Center	Karen Carpenter	Advising Associate	01/03/2002				Resignation
Academic Advising & Retention Center	Virginia L. Graves	Coordinator II	01/09/2002				Resignation
Academic Affairs	La Vette Burnette	Office Associate	01/02/2002				Resignation
Admissions and Academic Services	Jean-Marie Lawson	Admissions Counselor	01/02/2002				Resignation
Athletics	Daniel B. Corbin	Pt-Regular Prof Non-Faculty	12/31/2001				Resignation
Building Services	Grace Elaine Burton	Building Services Attendant	10/22/2001				Resignation
Building Services	Monty L. Glass	Building Services Attendant	11/07/2001				Resignation
Building Services	Lorenzo Hall	Building Services Attendant	10/17/2001				Resignation
Building Services	Ray Anthony Rhodes	Building Services Attendant	10/12/2001				Resignation
Building Services	Phyllis D. Skees	Building Services Attendant	12/05/2001				Resignation
Downing University Center	Patricia E. Witty	Senior Operations Manager	01/04/2002				Resignation
Facilities Fiscal Services	Thomas A. Priddy	Pt-Reg Service/Maint (other)	09/22/2001				Resignation
Housing & Residence Life	Heather Byers	Residence Hall Director	12/18/2001				Resignation
Housing & Residence Life	Samantha M. Ivery	Residence Hall Director	12/16/2001				Resignation
Housing & Residence Life	Anthony K. Spires	Housing Associate	01/02/2002				Resignation
HVAC/Utilities Services	Vincent Meredith	Boiler Operator	11/10/2001				Resignation
Intramural & Recreational Sports	Frederick G. Barnett	Pt-Temp Technician/Paraprof	08/30/2001				Resignation
Intramural & Recreational Sports	Dina Marie Hendel	Pt-Regular Prof Non-Faculty	08/30/2001				Resignation
Library Public Services	Melissa A. Alexander	Sr Interlibrary Loan Assistant	01/02/2002				Resignation
Social Work	Kathy McKee Hicks	Office Associate	01/11/2002				Resignation
Women's Basketball	Mary Taylor Cowles	Director	10/26/2001				Resignation

PERSONNEL CHANGES – STAFF
(continued)

Department	Employee	Title	Effective Date	End Date	Salary	Proposed Salary	Type Action
Building Services	Barbara Edmonds	Building Services Attendant	10/12/2001				Termination
Building Services	James Elmore	Building Services Attendant	12/12/2001				Termination
Building Services	Wanda Smithhisler	Building Services Attendant	10/15/2001				Termination
Campus Services	Glen Albert Bolling	Groundskeeper	11/07/2001				Termination
Controller	Amanda Atkinson	Accounts Associate	12/31/2001				Termination
Maintenance Services	John Ford	Sr Carpenter	08/07/2001				Termination

Motion for approval of the recommended personnel actions was made by Mr. Martin, seconded by Ms. Wathen, and passed with Professor Miller voting nay.


AGENDA ITEM 10 - Adjournment

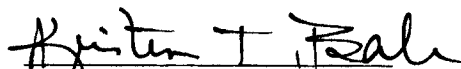
Motion to adjourn was made by Mr. Martin, seconded by Mr. Fischer, and carried.


The meeting adjourned at approximately 11:31 a.m.

CERTIFICATION OF SECRETARY

I hereby certify that the minutes herein above set forth an accurate record of votes and actions taken by the Board of Regents of Western Kentucky University in the first quarterly meeting held January 23 , 2002, on the campus of Western Kentucky University, and further certify that the meeting was held in compliance with KRS 61.810, 61.815, 61.820, and 61.825 (enacted as Sections 2, 3, 4 and 5 of House Bill 100, 1974 Regular Session, General Assembly).


Elizabeth W. Esters
Secretary


Kristen T. Bale, Chair
May 31, 2002


Elizabeth W. Esters
Secretary
May 31, 2002

FUND BALANCE ALLOCATION BY CATEGORY

	E&G	AUXILIARY
Fund Balance year end 6-30-01	7,783,112.04	2,723,568.73
I. ACCOUNTING REQUIREMENTS (e.g., encumbrances, accrued vacation, change fund, inventory, grants & contracts cost share)	1,560,754.88	1,542,037.31
II. RESERVE	2,060,000.00	300,000.00
III. PREVIOUSLY APPROVED BOR COMMITMENTS	160,377.87	19,597.83
IV. BALANCES RETURNED TO DIVISIONS/ CARRY FORWARD POLICY IMPLEMENTATION		
Student Health Service Reserve	\$ 139,743.96	
Collegiate Payout	63,000.00	
Indirect Cost Recovery from Grants	453,329.54	
Faculty House Rent (Carry-forward)	1,086.18	
Revenue Dependent Balances	1,198,701.85	
Workshop Balances	491,912.70	
Implementation of Carry-forward Policy		
Fund Balance by Administrative Council Division		
Provost/Vice President of Academic Affairs		
Faculty/Graduate Research Accounts	167,893.43	
Unit Productivity Awards	104,324.79	
Program of Distinction (POD)	678,827.25	
Campus Cultural Enhancement	5,726.04	
Distinguished Professorships	8,074.76	
Fund Balance for Division of Academic Affairs	<u>286,257.81</u>	
Subtotal	\$ 1,251,104.08	
President's Areas (Home)	\$ 3,419.29	
Chief Financial Officer	\$ 21,506.57	
Chief Public Affairs Officer	\$ 58,300.06	
Athletics	\$ (116,691.69) *	
Information Technology		
Fund Balance for Division Information Technology	184,520.73	
Banner Implementation	34,862.94	\$ 219,383.67
Development and Alumni Relations		
Capital Campaign	\$ 50,569.02	
Student Affairs		
Fund Balance for Division of Student Affairs	126,573.90	
Parking & Traffic Improvements	191,383.84	\$ 317,957.74
Subtotal	\$ 4,153,322.97	
Plant Fund Reallocation	\$ (125,000.00)	
V. AVAILABLE FOR REALLOCATION	<u>\$ (26,343.68)</u>	<u>\$ 861,933.59</u>

*FY-01-02 Athletics Revenue will be transferred to central contingency

MEMORANDUM OF AGREEMENT

This **MEMORANDUM OF AGREEMENT** ("**Agreement**") is entered into on the _____ day of _____, 2001, by and among **WESTERN KENTUCKY UNIVERSITY** ("**WKU**"), acting by and through its Board of Regents; the **CITY OF BOWLING GREEN, KENTUCKY** (the "**City**"), acting by and through its Board of Commissioners; and **THE HILLTOPPER ATHLETIC FOUNDATION, INC.**, a Kentucky non-stock non-profit corporation ("**HAF**"), acting by and through its Board of Directors.

WITNESSETH:

WHEREAS, the City, Warren County and HAF jointly participated in funding a feasibility study concerning a multi-purpose athletic, recreational and entertainment facility available to the citizens and residents of Bowling Green and Warren County; and

WHEREAS, as a result of the feasibility study, it was determined that the construction of a new multi-purpose facility was not feasible, but renovating E.A. Diddle Arena as a multi-purpose athletic, recreational and entertainment facility available to the community is feasible; and

WHEREAS, renovating E.A. Diddle Arena as a multi-purpose athletic, recreational and entertainment facility with improved access and adequate parking will promote recreational, economic and cultural opportunities for the citizens and residents of Bowling Green and Warren County; and

WHEREAS, WKU owns certain real property within the City described in Exhibit A, on which real property are located certain athletic facilities of WKU, including E. A. Diddle Arena and related athletic facilities (the "**Property**"); and

WHEREAS, certain of the athletic facilities located on the Property, including, but not limited to E.A. Diddle Arena, are in need of renovation and repair in order to be used as multi-purpose athletic, recreational and entertainment facilities, and WKU is without the necessary authority to incur debt for the purpose of renovating and repairing its properties as described within this Agreement; and

WHEREAS, the City has agreed, in its sole and absolute discretion, and subject to the provisions of this Memorandum of Agreement, and upon the authorization of the Project by the Kentucky General Assembly, the Kentucky Finance and Administration Cabinet (FAC) and other appropriate State agencies, to issue its General Obligation Bonds, Series 2002A and Series 2002B (the "**Bonds**"), in an amount up to Thirty-two and one-half Million Dollars (\$32,500,000)

to finance the renovation, improvement and equipping of certain facilities identified and described by WKU that are located on the Property consisting of: (1) the renovation of E.A. Diddle Arena; (2) land acquisition, parking lot preparation and pedway design and construction for E.A. Diddle Arena parking; (3) replacement of natural grass with synthetic grass surface for Feix Field and construction of a practice football field; and (4) other additional expenses to include curbing, sidewalks, steps, drainage and other modifications, all related to the foregoing (collectively the "Project"); and

WHEREAS, prior to any construction work on the Project, including Diddle Arena, WKU will seek authorization for the Project under KRS 45.760 and authorization for the use of Student Athletic Fees, as defined in this Memorandum of Agreement, from the Kentucky General Assembly during its 2002 Regular Session; and

WHEREAS, WKU is prohibited by the Kentucky Revised Statutes from incurring debt for the renovation and improvement of the Project without authorization from the Kentucky General Assembly and other State agencies as provided above; and

WHEREAS, HAF is a non-stock, non-profit corporation under KRS Chapter 273 and is a nonaffiliated corporation within the meaning of KRS 164A.550(3), and its purposes among others, are (1) to function as a supporting organization of WKU and its athletic programs with the source of its funds being charitable contributions from individuals and corporations, (2) to solicit tenants for suites to be constructed in the renovated E.A. Diddle Arena, and (3) to sell the naming rights to the renovated E.A. Diddle Arena; and

WHEREAS, the Property, including the Project, shall constitute a public project of the City, acting jointly with WKU, within the meaning of KRS Chapter 58 and KRS 66.011 and shall be operated for the educational, athletic, entertainment and recreational activities and purposes of the students, faculty and staff of WKU and the general public as contemplated by the provisions of this Agreement; and

WHEREAS, the proposed issuance of the Bonds and the carrying out of the Project shall be subject to the terms and provisions of this Agreement and such subsequent agreements as the parties shall enter into.

NOW, THEREFORE, for and in consideration of the mutual covenants contained herein and the mutual benefits to be derived by the parties hereto, the legal sufficiency of which being acknowledged by WKU, HAF and City, it is agreed as follows:

1. **Property.** This Memorandum of Agreement shall apply to all construction and improvements on the Property comprising the Project that are to be funded by the Bonds. The Property and the Project are described in Exhibit A which is incorporated herein by reference.

2. **Project Renovations.** The Project shall consist of the renovation, improvement and equipping of certain facilities identified and described by WKU that are located on the Property consisting of: (1) renovation of E.A. Diddle Arena; (2) land acquisition, parking lot preparation and pedway design and construction for E.A. Diddle Arena; (3) replacement of natural grass with synthetic grass surface for Feix Field and the construction of a practice football; and (4) other additional improvements to include curbing, sidewalks, steps, drainage and other modifications, all related to the foregoing.

3. **Finance and Administration Cabinet.** The parties acknowledge that FAC is authorized to delegate to WKU all or any portion of the Project administration. Subsequent to General Assembly authorization, FAC will approve this Agreement and authorize the Project by a letter to the parties and will specify in that letter which portions of the Project administration will be delegated to WKU. WKU will keep FAC and the Council on Postsecondary Education (CPE) fully informed of the Project and will provide information, including, but not limited to, a Project update at completion of design, construction status reports once construction is underway, and copies of all construction project meeting minutes.

4. **General Assembly Authorization.** WKU will seek authorization under KRS 45.760 and any other relevant statutes for the Project from the General Assembly early in its 2002 session as contemplated by this Memorandum of Agreement and authorization for the use of Student Athletic Fees as contemplated by this Memorandum of Agreement. "Student Athletic Fees" shall consist of those fees assessed and collected from WKU students and dedicated to WKU athletics, including the costs of this Project.

5. Closing And Sale Of Bonds and Project Administration. After State authorizations of the Project and court approval, if sought as set out in Paragraph 22, and satisfaction of all legal and credit requirements of the City, the City shall cause to be issued up to Thirty-two and One-half Million Dollars (\$32,500,000) of the Bonds, in an amount and amortized over a term to be determined by the City, with the advice of WKU. The Bond proceeds shall be utilized for the payment of costs of renovations and improvements related to the Project, including but not limited to qualifying surveying fees, architectural fees, engineering, contractors' costs, design costs, replacement of fixtures, furniture and equipment and reasonable legal fees and cost of issuance. WKU shall serve as the contracting entity for the Project and shall undertake the Project consistent with the plans and specifications submitted to and approved by City. The City shall have no liability for any costs that exceed the funds available from the Bonds. All renovations and improvements made under the provisions of this Memorandum of Agreement shall be made under the supervision of a construction manager and shall comply with all applicable federal, state and local laws and regulations. The City shall have the right to make inspections of the Project at reasonable times during construction. All invoices for payment shall be reviewed and approved by the construction manager and WKU and shall be forwarded to City's department head for the Department of Public Works. Upon City's approval, City shall direct that the appropriate amount of Bond proceeds be paid to WKU and WKU shall be responsible for payment to the various contractors.

6. Covenant to Impose and to Transfer Funds to City. After authorization for the construction and the use of Student Athletic Fees is granted by the Kentucky General Assembly and other State agencies and officials as may be required, the Board of Regents of WKU agrees and covenants to impose throughout the term of the Bond issue the Student Athletic Fees in amounts not less than the principal of and interest on the Bonds and associated administrative costs and expenses incurred by the City and to appropriate and to pay to the City the Student Athletic Fees it collects, and HAF covenants and agrees to pay to the City all net revenue it receives from the rentals of suites (defined as annual suite rental minus annual HAF contribution) and all revenue it receives from the naming rights to the newly renovated E.A. Diddle Arena throughout the entire term of the Bond issue (all such payments being referred to collectively as the "Project Payments"). All payments to the City of the Student Athletic Fees shall be made on a schedule determined by the City in its sole discretion. Any of the Student

Athletic Fees that are determined by the City, in its sole discretion, not to be needed by the City in any year of the Project shall be returned to WKU. All payments to the City of the suite rental and naming rights revenues shall be made on a schedule agreed to by the City and HAF. None of the indebtedness can be assigned or transferred, directly or indirectly, to the Commonwealth of Kentucky.

7. **Model Procurement Code.** WKU shall adhere to the applicable provisions of the Kentucky Model Procurement Code on the Project.

8. **Prevailing Wage.** All services performed on the Project shall be subject to the applicable provisions of the Kentucky prevailing wage law, KRS 337.505 through 337.550.

9. **Commitment for Revenue.** WKU covenants and agrees to maintain the Student Athletic Fees in amounts not less than the principal of and interest on the Bonds and associated administrative costs and expenses and such other amounts as may be required by the City as contemplated by this Memorandum of Agreement throughout the term of the Bond issue.

10. **Records.** Upon written request, City, HAF and WKU shall provide to each other or to any competent authority of the Commonwealth of Kentucky, including without limitation, the Finance and Administration Cabinet, the Council on Postsecondary Education, the Legislative Research Commission, or Auditor of Public Accounts, access to any financial or operating records maintained by or on behalf of the City, HAF or WKU relating to the Property.

11. **Repairs, Maintenance and Replacements.** The Property shall be repaired, maintained or replaced by WKU at its sole expense in the following manner:

A. **Maintenance.** WKU shall maintain the Property in good repair and condition and in conformity with all federal, state and local requirements and shall make or cause to be made routine repairs and maintenance.

B. **Repairs.** WKU shall use its best efforts to cause the Property to be maintained in good repair, including but not limited to, cleaning, painting, decorating, plumbing, carpentry, heating, ventilation, air-conditioning, grounds care, and such other maintenance and repair work as may be necessary.

12. **Indemnification.** WKU shall indemnify and hold harmless the City and HAF from any liability, including attorneys' fees and court costs, resulting from any claims, actions or suits related to claims for damages in or related to Diddle Arena or any of the other Project locations

or activities. WKU shall require all third party vendors operating on the Property to carry liability insurance with coverage limits as designated by WKU, and to provide WKU with proof of such insurance.

13. Property Insurance. WKU shall purchase and maintain, at its sole expense, property insurance coverage, including but not limited to coverage for fire, lightning, windstorm, hail, earthquake, explosion, riot, riot attending a strike, civil commotion, damage from aircraft, smoke and uniform standard coverage and vandalism and malicious mischief endorsements and business interruption insurance coverage and contents thereof for full replacement value of Diddle Arena. Such policy or policies of insurance may be obtained through the State Risk and Insurance Services of the Department of Insurance for real estate and properties owned by the Commonwealth of Kentucky. WKU shall act in a prompt manner in connection with the making of any claims and the collection of any insurance money that may be due and shall execute and deliver such proofs of loss and other instruments that may be required for the purpose of obtaining the recovery of any such insurance monies. Any funds collected from insurance coverage shall be used to make repairs to the Property and, if not used to make repairs, any funds collected shall be applied towards the Bond debt. Should WKU fail to maintain the insurance coverage required above, the City may, at its discretion, purchase and maintain the required insurance and the cost of such insurance shall be considered part of the next Project Payment.

14. Facilities Usage Policies. WKU shall establish policies relating to the use of the Property, including, but not limited to, policies relating to public access, drugs, smoking, weapons, public availability to the property and related policies. All such policies shall comply in all respects with all applicable laws and regulations and shall be subject to notification of the City. If the City takes no action to disapprove any such policy within 20 days of receiving notice, then such policy will be deemed approved by the City.

15. Remedies. Each party to this Memorandum of Agreement may, in that party's sole discretion, proceed to exercise or enforce any right, power, privilege, remedy or interest that such party may have under this Memorandum of Agreement or applicable law without notice, except as otherwise expressly provided herein, without pursuing, exhausting or otherwise exercising or enforcing any other right, power, privilege, remedy or interest that such party may

have against or in respect of any other party or any other person or entity, and without regard to any act or omission of such party, person or other entity.

16. Compliance with Applicable Laws and Regulations. WKU covenants and agrees that it and its agents and employees, will comply with all municipal, county, state, and federal laws, rules, regulations and ordinances applicable to the Property or the work to be performed under this Memorandum of Agreement and it shall obtain all necessary permits and shall pay all respective applicable license fees and taxes.

17. Other Party Rights. No entity or person other than a party hereto other than bondholders and any credit enhancers will have any right, remedy or claim under or by reason of this Agreement or otherwise be an outside party beneficiary of any rights, remedies, claims or agreements hereunder. WKU, the City and HAF acknowledge and agree this Memorandum of Agreement may be used in any manner by the City in any issuance of the Bonds.

18. Exhibit Incorporated by Reference. Exhibit A referred to in this Memorandum of Agreement shall be considered incorporated into this Memorandum of Agreement as if copied in full.

19. Binding Effect. This Memorandum of Agreement shall be binding upon, and shall inure to the benefit of, the respective successors and assigns of the parties hereto.

20. Entire Agreement and Amendments. Other than documents related to the Bonds and other transactions contemplated herein, this Memorandum of Agreement contains the entire understanding of the parties hereto with respect to the subject matter contained herein and may be amended, supplemented or superseded by the parties.

21. Governing Law. This Agreement shall be construed in accordance with, and governed by, the laws of the Commonwealth of Kentucky.

22. Authority. City represents and warrants it is a duly organized city and political subdivision of the Commonwealth of Kentucky. WKU represents and warrants it is a duly organized state-chartered university and political subdivision of the Commonwealth of Kentucky. HAF represents and warrants that it is a nonprofit corporation duly organized, validly existing and in good standing under the laws of the Commonwealth of Kentucky. Each party to this Memorandum of Agreement has full power and authority to enter into this Memorandum of Agreement and to carry out its obligations hereunder. Each party has previously adopted municipal orders or resolutions authorizing this Memorandum of Agreement. Each party

acknowledges that the execution and delivery of this Memorandum of Agreement does not conflict with or result in the breach of the terms of any agreement or instrument by which the party is bound, or conflicts with or results in the violation of any provision of law or regulation applicable to the party. Each party acknowledges that there is no litigation or proceeding pending or threatened against the party or any other person or entity effecting the right of such party to execute or deliver this Memorandum of Agreement or to comply with its obligations under this Memorandum of Agreement. Due to the unique nature of this transaction, the City reserves the right pursuant to the Kentucky Revised Statutes to seek a declaratory action in Warren Circuit Court to obtain court approval of the Bonds and the transactions and commitments set out in this Memorandum of Agreement, and the parties agree, notwithstanding any other provisions of this Memorandum of Agreement, that the performance and enforcement of this Memorandum of Agreement shall be subject to such court approval, if sought by the City, as well as the authorization of the General Assembly, the Kentucky Finance and Administration Cabinet and other State agencies as may be required.

23. Headings. The headings of the sections of this Memorandum of Agreement are inserted solely for convenience of reference and are not part of and are not intended to govern, limit or aid in the construction of any term or provision hereof.

24. Modifications. Each and every modification to or amendment to this Agreement must be in writing and signed by the parties hereto, or their respective successors and assigns. Each and every waiver of and consent to any departure from and term or provision hereof (except as otherwise provided herein) must be in writing and signed by the party against whom enforcement of the waiver or consent is sought.

25. Counterparts. This Memorandum of Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

26. Time is of the Essence. Time is of the essence with respect to the obligations of the parties hereto, subject to the reasonable and prudent actions and determinations of the parties.

27. No Presumption. Since each party and its counsel have reviewed and negotiated the terms and provisions of this Memorandum of Agreement and have contributed to the drafting of this Memorandum of Agreement, the rule of construction to the effect that any ambiguities are resolved against the drafting party will not be employed in the interpretation of this

Memorandum of Agreement. Its terms and provisions will be construed fairly as to all parties hereto and not in favor of or against any party, regardless of which party was generally responsible for the preparation of this Memorandum of Agreement.

28. Application of Agreement. This Agreement shall be effective upon execution by the parties and authorization by the Kentucky General Assembly and other necessary State agencies. The terms of this Memorandum of Agreement shall be applicable for so long as the Bonds shall be outstanding.

29. Notices. All notices, requests, consents, and other communications under this Memorandum of Agreement shall be in writing and shall be mailed first class, registered or certified mail, postage prepaid, return receipt requested:

If to WKU: Dr. Gary A. Ransdell, President
Western Kentucky University
One Big Red Way
Bowling Green, KY 42101

With copies to:

Deborah Wilkins, General Counsel
Western Kentucky University
One Big Red Way
Bowling Green, KY 42101

Kevin Flanery, Secretary
Finance and Administration Cabinet
383 Capitol Annex
Frankfort, Kentucky 40601

If to City: Charles Coates, City Manager
City Hall
1001 College Street
Bowling Green, KY 42101

With Copy to: H. Eugene Harmon
Satterfield & Harmon
P. O. Box 9970, 313 East 10th Avenue
Bowling Green, KY 42102-4970

If to HAF: Jim Clark
Hilltopper Athletic Foundation
Western Kentucky University
E.A. Diddle Arena, Room 211
Bowling Green, KY 42101

With Copy to: Keith M. Carwell
English, Lucas, Priest & Owsley
P.O. Box 770
1101 College Street
Bowling Green, KY 42102-0770

or to such other address of which the addressee shall have notified the sender in writing. Said notice or other communication shall be considered received on the date on which it

