

Board Meeting
January 17, 2008

AUTHORIZE NEGOTIATION AND EXECUTION OF A CONTRACT FOR SALE OF
LAND IN PIATT COUNTY

Action: Authorize Negotiation and Execution of a Contract for Sale of Land in Piatt County

Funding: No New Funding Required

The Illinois Department of Natural Resources (IDNR) is interested in acquiring an approximately 150-acre parcel of land in Piatt County from the University. The 150-acre parcel contains approximately nine (9) acres of tillable farmland and approximately 141 acres within the Sangamon River floodplain. Based on negotiations with IDNR, it is recommended that a contract for 150 acres of endowment farmland be entered into with IDNR.

The 150-acre parcel was given to the University by Robert Allerton to support the Woodland Property at Allerton Park. According to the terms of the 1946 Indenture governing the gift from Robert Allerton, sale of any portion of the land is subject to approval of the "President of the University of Illinois Alumni Association" (now known as the UIAA "Board Chair") and the Chief Justice of the Illinois Supreme Court. The sale proceeds would be invested in the University's endowment pool to support the Woodland Property at Allerton Park, as required by the Indenture. The

floodplain acreage currently produces no income and this transaction will provide additional income to the Park via the endowment pool investment.

This is not the first transaction involving the requirements set forth in the 1946 Indenture. In 2003, a sale of 1,300 acres of Allerton land was proposed, and then-Chief Justice McMorrow was asked to approve the transaction. She recused herself from participating in the approval process, citing the opinion of Illinois Attorney General Lisa Madigan. The opinion indicated that the provisions of Supreme Court Rule 65, which generally prohibit judges from participating in fiduciary activities, would preclude the Chief Justice from participating in the administration of the Allerton Indenture. It also cited the public policy consideration of Rule 65 that there exist an independent, fair, and competent judiciary. This approval issue became moot when the real estate transaction was not completed for other reasons. This Board item anticipates the possibility of a similar response by the current Chief Justice, Robert R. Thomas.

The President of the University with the concurrence of the appropriate University officers recommends that the Chancellor at Urbana and the Comptroller of the Board of Trustees be authorized to negotiate and execute a contract for sale, subject to approval of the Chair of the Board (formally known as “President”) of the Alumni Association and the Chief Justice of the Illinois Supreme Court, and to take other actions as are necessary to complete the sale of the 150-acre tract to IDNR, including actions deemed legally necessary and appropriate to comply with the Allerton Indenture if the current Chief Justice of the Illinois Supreme Court, Robert R. Thomas, should recuse himself from participation in the approval process. Such action(s) may include the reasonable reliance on paragraph 14 of the Allerton Indenture which excuses the

University from performance of a condition of the Indenture when it is prevented “by causes beyond [the University’s] control.”

The Board action recommended in this item complies in all material respects with applicable State and federal laws, University of Illinois *Statutes*, *The General Rules Concerning University Organization and Procedure*, and Board of Trustees policies and directives.