

FCR 5

Office of the President
September 11, 2007

Members, Board of Trustees:

CONSENT TO MODIFICATION OF LISTED EXTERNAL TRUSTS

Recommendation: that the Board of Trustees approve and authorize the treasurer to execute consents, which will be attached as exhibits to petitions to be filed pursuant to KRS 386.454 by the trustees indicated below, in the applicable district courts, consenting to modification of the applicable trusts to allow the trustees to utilize a “total return” investment and distribution method for the following external trusts:

<u>Trust:</u>	<u>Trustee:</u>
Barth Foundation Trust	Stockyards Bank
George Warrick Salary Supplement Trust	National City
L. H. May Trust	BB&T
William S. & Elizabeth M. Morgan Professorship Trust	National City

Background: Stockyards Bank, National City, and BB&T currently serve as trustees of the above external trusts of which the University of Kentucky is an income beneficiary. Currently, under the terms of the applicable trusts, distributions to the university from these trusts are restricted to income only. The Kentucky Principal and Income Act, enacted by the 2004 General Assembly, became effective January 1, 2005. This act allows trustees to petition the District Court, subject to the consent of the beneficiary, to manage trusts using a “total return” investment and distribution method. A total return method is desirable as it allows trustees more discretion in making prudent investment decisions to maximize the total return of the trust and related distributions to the beneficiary. Future distributions to the university, subject to court approval and trustee discretion, could be based on an annual spending rate between 3 percent and 5 percent consistent with the spending policy for the university’s endowments.

Stockyards Bank, National City, and BB&T, with the approval of the Board of Trustees, will file a petition for each external trust requesting authority to manage the trusts under a total return and distribution method. The consents of the university, executed by the treasurer, will be filed with the trustee’s petitions in the applicable district court.

On September 20, 2005, the Board of Trustees approved a similar action for the filing of twelve petitions in Fayette District Court by Bank One Trust Company, N.A. requesting authority to manage the twelve external trusts under a total return and distribution

method. Eleven of the twelve petitions were filed and approved by the Fayette District Court in January 2006. J. P. Morgan (successor to Bank One) plans to file the remaining petition for the Herman Lee and Nell Stuart Donovan Memorial Trust soon, upon receiving the consent of Eastern Kentucky University, which is the co-income beneficiary.

Action taken: Approved Disapproved Other _____