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STATE OF ALABAMA
OFFICE OF THE ATTORNEY GENERAL

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Honorable Robert E. Witt
President, The University of Alabama
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Box 870100
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Colleges and Universities – Real Property
– Conveyances – Public Purpose –
University of Alabama

The Board of Trustees of the University of Alabama (“University”) may obtain and hold title to a parcel of surplus property from the federal government through the Federal Lands to Parks program. The University may designate the land for public recreational use as long as the board of trustees determines that this public use is best for the purposes of the University.

Dear President Witt:

This opinion of the Attorney General is issued in response to your request on behalf of the Board of Trustees of the University of Alabama.

QUESTIONS

Can the Board of Trustees of the University of Alabama:

(a) Acquire surplus real property from the General Services Administration through the Federal Lands to Parks program?

(b) Designate surplus land acquired from the General Services Administration

to be used as a public recreational center; including rowing facilities for the University of Alabama Women's Rowing Team and other facilities available to the public for recreation?

FACTS AND ANALYSIS

Your request states that the University seeks to acquire a parcel of surplus property from the federal government through the Federal Lands to Parks program, which is administered by the National Park Service. This parcel of land is commonly known as River Road Park East, and it shares a common boundary with land owned by the University that is used by the general public and the University community for recreational purposes. If acquired, the University will designate this land for recreational use by the public and the University community. In addition to upgrading the existing public facilities on the River Road Park East land, the University has plans to construct a concession stand operated by the University, ADA accessible docks and launching ramps, and an elevated walkway to allow access to the park area without crossing a four-lane road. The University also has plans to build a team and storage facility for use by its intercollegiate Women's Rowing Team. The acquisition of the surplus property would promote the functioning of the University by providing additional recreational facilities for its students, staff, and faculty, as well as expand the University's existing adjacent public park for the benefit of the general public.

To that end, the University has approved the submission of an application to the National Park Service to acquire the surplus River Road East Park. In response to this application, the National Park Service needs written assurances from the University that it has the authority to acquire and hold title to the land and that the University can designate that land for public recreational purposes.

The University is a public corporation and instrumentality of the State of Alabama existing under the provisions of section 264 of the Constitution of Alabama and sections 16-47-1, *et seq.*, of the Code of Alabama. As such, it is a political subdivision of the state. The University's governing board, the Board of Trustees ("Board"), is constitutionally vested with the management and control of the state university. ALA. CONST. art. XIV, § 264 (amend. 399). Statutorily, the Board has "all the rights, powers and franchises necessary to or promotive of the end of its

creation . . .” ALA. CODE § 16-47-2 (2001). Section 16-47-3 provides that the Board:

may hold and may lease, sell or in any other manner not inconsistent with the object or terms of the grant or grants under which it holds dispose of any property, real or personal, or any estate or interest therein, remaining of the original or any subsequent grant by Congress, or by this state, or by any person, or accruing to the corporation from any source, including also the proceeds of the university fund, as to it may seem best for the purposes of its institution.

ALA. CODE § 16-47-3 (2001). This Office has previously stated that the powers of the University include “the right to acquire property and construct whatever buildings that promote the functioning of the campuses of the University of Alabama System.” Opinion to Honorable Thomas A. Bartlett, Chancellor, University of Alabama System, dated January 4, 1988, A.G. No. 88-00100.

This Office has further recognized that the State of Alabama and the federal government have donated property to each other for various public purposes. Opinion to Honorable James D. Martin, Commissioner, Department of Conservation and Natural Resources, dated April 26, 1996, A.G. No. 96-00197. See Opinion to Honorable Joe A. Lee, President, Alabama State University, dated October 31, 2007, A.G. No. 2008-011 (a state university may designate land to be used by the National Park Service). Furthermore, there are no provisions that prohibit the University from obtaining land from the United States government. Given the broad authority of the University to acquire property to further promote the interests of the University, it is the opinion of this Office that the University can accept a conveyance of property from the federal government.

The second part of your question asks whether the University may dedicate the River Road Park East property as land for public use. This Office has previously determined that Alabama State University may designate land to be used as a public Civil Rights Interpretive Center, provided that the board of trustees makes a determination that the property is used in a manner that is best for the purposes of the university. *Id.* Alabama State University is given the statutory authority to control and manage property as it may “deem best for the purposes of the university.” ALA. CODE § 16-50-22 (2001). Similarly, the Board of Trustees of the

Honorable Robert E. Witt
Page 4

University of Alabama is given the power to control and manage its property as it determines "may seem best for the purposes of its institution." ALA. CODE § 16-47-3 (2001). Accordingly, it is the opinion of this Office that the University can designate land it acquires from the federal government for public use as long as the Board determines that the public use is in the best interests of the University.

CONCLUSION

The Board of Trustees of the University of Alabama may obtain and hold title to a parcel of surplus property from the federal government through the Federal Lands to Parks program. The University may designate the land for public recreational use as long as the Board determines that this public use is best for the purposes of the University.

I hope this opinion answers your questions. If this Office can be of further assistance, please contact me.

Sincerely,

TROY KING
Attorney General
By:



BRENDA F. SMITH
Chief, Opinions Division

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