

Testimony to the  
**Government Finance Committee**

By

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Good morning, Chairman Delzer and members of the Government Finance Committee.

My testimony will provide responses to the specific questions listed on your agenda regarding the purchase of the Research Enterprise and Commercialization building at the University of North Dakota. I will address these questions in order.

*Question Number One: The process and rationale used to determine the amount of square footage needed for the building, including detail regarding any changes made to the building size or cost during planning and construction activities.*

As indicated in previous testimony, the individuals that were involved in the planning and construction activities of the REAC building are no longer at the University of North Dakota Research Foundation or the University of North Dakota. I am not aware of the specific process and rationale used to determine the amount of square footage needed. A grant proposal written in late 2005 contains letters of interest from potential private sector tenants including identification of square footage that might be needed, should they choose to become tenants.

Information from early in the construction process refer to the REAC as a "...core and shell/tenant fit-up building type." This would include all necessary mechanical/electrical and life safety items required for a certificate of occupancy as well as an allowance for interior construction. It appears that this was later referred to as phase 1 of the project. Phase 2 was described as the build-out of the biosafety level 2 and biosafety level 3 laboratory space within the existing square footage. A phase 3 was also anticipated which would build-out pilot plant capability within the building. Phases 1 and 2 were completed. Phase 3 has not yet been completed, pending identification of future tenant needs.

I have reviewed documents dating from late 2005 through 2006 indicating that a facility of varying square footage, ranging from 70,000 down to 50,000 square feet, was planned at an estimated cost of \$12.5 million. Information from 2006 reflects the estimated square footage at 50,000 at the same \$12.5 million estimated cost. The documentation is not clear whether this cost estimate was only for phase 1. Without clarity regarding the planning assumptions, it is not possible to determine with any certainty what aspects of these planning assumptions may have changed.

*Question Number Two: Detail regarding the sources of funds used to purchase building equipment and furniture.*

A total of \$1,780,656 in equipment and furniture was purchased by the UND Research Foundation. Of that total, \$1,079,451 was from grant funding with the remaining \$701,205 funded from operating revenue. Sources for the grant funding included \$207,954 from Centers of Excellence and \$871,497 from the Department of Energy.

*Question Number Three: The amount of space leased in the building each year since the building was constructed, including the amount of space leased to each entity and related lease income.*

List attached. Please note that a total for the amount of space leased column has not been included. Such a total would not be accurate due to vacancies, changes to square footage occupied and/or new leases occurring during the year.

*Question Number Four: An overview of restrictions on the building due to the use of federal grant funds to construct the building, including options to remove the federal restrictions and information regarding whether the restrictions would be in effect had the building been foreclosed on by the private lender.*

Prior testimony was presented indicating that (quote) "Grant funding by definition must be used for the purpose for which it is received. In this case, the purpose was to construct a building to be used for economic development. More specifically, the grant proposal stated that the original intent of constructing the facility was to provide space for the growth and development of technology based companies targeted to life sciences and advanced engineering. This space was intended to be occupied primarily by private sector partners, spin off companies and business alliances, with related limited University usage also possible. The stated intent for use was the basis for grant funding from the EDA (proposal incorporated by reference), which funded the infrastructure on the site for the building." (end quote)

With the transfer of the grant to UND, the agreement contains the following: "Leasable Space Limitation: The Grant Recipient agrees to limit the amount of leasable space in the Research Enterprise and Commercialization building that is occupied by the University of North Dakota staff for office use to a maximum of twenty (20) percent of the leasable space." All other terms and conditions remain in effect.

UND continues to work towards full occupancy of the building.

The question of options to remove the federal restrictions has been posed to our contact at EDA. A reply has not yet been received. She has previously indicated that full repayment of the \$1.5 million grant would accomplish this goal.

On the question of whether the federal restrictions from the grant award would survive foreclosure, Counsel for UND has reviewed available documents and did not see

anything that indicates the federal restrictions would survive foreclosure. However, the lender would still be subject to the restrictions on use of the building contained in the ground lease which was in effect prior to the building being purchased by UND.

*Number Five: The specific sources of funds the University of North Dakota intends to use to repay the loan used to purchase the building.*

As indicated in the original State Board of Higher Education agenda item, "The primary source of funds for repayment of the financing will be the rent and operating revenue generated by the facility. If necessary, other land lease revenue, local funds, grant funding and/or appropriated funding may be used."

Based on current occupancy, UND is projecting \$425,420 to be paid in FY14 from rent revenue and \$113,090 from other land lease revenue.

Chairman Delzer and members of the Committee, this concludes my testimony. I would be happy to answer any questions.

**REAC1 SUMMARY OF SPACE**

**Number Three: The amount of space leased in the building each year since the building was constructed, including the amount of space leased to each entity and related lease income.**

| <b>FY July 2008-June 2009</b> |                               | <b>Note: January 2009 occupancy</b> |         |
|-------------------------------|-------------------------------|-------------------------------------|---------|
| <b>TENANT</b>                 | <b>Amount of Space Leased</b> | <b>Related Lease Income</b>         |         |
| Engineered Surfaces Center    | 3,140                         | \$                                  | 60,795  |
| Alion                         | 3,908                         | \$                                  | 34,226  |
| Avianax                       | 438                           | \$                                  | 4,200   |
| DMD Consulting                | 307                           | \$                                  | 3,395   |
| Ideal Aerosmith, Inc.         | 3,609                         | \$                                  | 39,192  |
| Laserlith Corporation         | 1,568                         | \$                                  | 19,277  |
| NovaDigm                      | 4,994                         | \$                                  | 90,964  |
|                               |                               | \$                                  | 252,049 |

| <b>FY July 2009-June 2010</b> |                               |                             |         |
|-------------------------------|-------------------------------|-----------------------------|---------|
| <b>TENANT</b>                 | <b>Amount of Space Leased</b> | <b>Related Lease Income</b> |         |
| Engineered Surfaces Center    | 3,140                         | \$                          | 127,573 |
| Alion                         | 3,908                         | \$                          | 83,986  |
| Avianax                       | 438                           | \$                          | 7,410   |
| DMD Consulting                | 307                           | \$                          | 5,910   |
| Ideal Aerosmith, Inc.         | 3,609                         | \$                          | 78,384  |
| Laserlith                     | 1,568                         | \$                          | 27,692  |
| NovaDigm                      | 4,994                         | \$                          | 216,738 |
|                               |                               | \$                          | 547,693 |

| <b>FY July 2010-June 2011</b> |                               |                             |           |
|-------------------------------|-------------------------------|-----------------------------|-----------|
| <b>TENANT</b>                 | <b>Amount of Space Leased</b> | <b>Related Lease Income</b> |           |
| Engineered Surfaces Center    | 3,140                         | \$                          | 109,335   |
| Aggie's Sunshine Café         | 416                           | \$                          | 900       |
| Alion                         | 3,908                         | \$                          | 21,320    |
| Avianax                       | 438                           | \$                          | 6,930     |
| DMD Consulting                | 307                           | \$                          | 2,509     |
| Ideal Aerospace, Inc.         | 3,609                         | \$                          | 26,128    |
| LM Wind Power Blades          | 3,579                         | \$                          | 14,305    |
| NovaDigm                      | 4,994                         | \$                          | 235,004   |
| UND                           | 10,502                        | \$                          | 623,275   |
|                               |                               | \$                          | 1,039,706 |

| <b>FY July 2011-June 2012</b> |                               |                             |           |
|-------------------------------|-------------------------------|-----------------------------|-----------|
| <b>TENANT</b>                 | <b>Amount of Space Leased</b> | <b>Related Lease Income</b> |           |
| Engineered Surfaces Center    | 3,140                         | \$                          | 119,274   |
| Aggie's Sunshine Café         | 416                           | \$                          | 1,825     |
| Avianax                       | 4,430                         | \$                          | 153,863   |
| LM Wind Power Blades          | 3,579                         | \$                          | 67,058    |
| LM Wind Power Service         | 2,641                         | \$                          | 9,012     |
| Mid-America                   | Hourly Charges                | \$                          | 856       |
| Next Healthcare, Inc.         | 2,431                         | \$                          | 18,923    |
| Novadigm                      | 4,994                         | \$                          | 250,299   |
| UND                           | 9,262                         | \$                          | 1,153,099 |
|                               |                               | \$                          | 1,774,209 |

| <b>FY July 2012-June 2013</b> |                               |                             |           |
|-------------------------------|-------------------------------|-----------------------------|-----------|
| <b>TENANT</b>                 | <b>Amount of Space Leased</b> | <b>Related Lease Income</b> |           |
| Engineered Surfaces Center    | 3,140                         | \$                          | 104,365   |
| Avianax                       | 4,430                         | \$                          | 61,565    |
| LM Wind Power Service         | 2,641                         | \$                          | 32,778    |
| Microbiology for Avianax      | 4,430                         | \$                          | 86,191    |
| Next Healthcare, Inc.         | 2,431                         | \$                          | 76,744    |
| NovaDigm                      | 4,994                         | \$                          | 242,379   |
|                               |                               | \$                          | 604,022   |
|                               |                               | \$                          | 4,217,679 |

| <b>FY July 2013-June 2014</b> |                               |                             |  |
|-------------------------------|-------------------------------|-----------------------------|--|
| <b>TENANT</b>                 | <b>Amount of Space Leased</b> | <b>Related Lease Income</b> |  |
| NovaDigm                      | 6,573                         | \$22,830 p/mo               |  |
| Next Healthcare, Inc.         | 2,431                         | \$6,722 p/mo                |  |
| Microbiology for Avianax      | 4,430                         | \$12,313 p/mo               |  |
| Basic Science SMHS            | 3,436                         | \$11,740 p/mo               |  |